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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 985/86 1986
T.A. No.

DATE OF DECISION 11.6.1987

Shri Kundan Singh **Petitioner**

Shri D.S. Bora **Advocate for the Petitioner(s)**

Versus

Post Master General **Respondent**

Smt. Raj Kumari Chopra **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*


(S.P. Mukerji)
Administrative Member

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Central Administrative Tribunal
Principal Bench, Delhi

Regn. No. OA-985/86

Date: 11.8.1987.

Shri Kundan Singh

.... Applicant

Versus

Post Master General

.... Respondent

For the Applicant

.... Shri D.S. Bora, Advocate.

For the Respondent

.... Smt. Raj Kumari Chopra,
Advocate.

CORAM: Hon'ble Shri S.P. Mukerji, Administrative Member.

JUDGEMENT

The applicant, a Sorting Assistant in the New Delhi Post Office, has moved this application under Section 19 of the Administrative Tribunals Act praying that the impugned order (Annexure I) dated 16.5.1986 cancelling the allotment of Government quarter allotted to him should be set aside and eviction proceedings declared as void.

2. The admitted facts of the case are that the applicant was allotted Quarter No.18 at Khurshid Square, Civil Lines, Delhi, in which area there was a general complaint of sub-letting. An enquiry was made by the respondents on 3.5.1986 ^{through} ~~by~~ a squad and it was found that one, Shri Raje Singh, who later was found to be the real brother of the allottee-applicant and was employed in the D.T.C., was also residing along with the applicant. The respondents, accordingly, issued the impugned order cancelling the allotment and proceedings under Section 4(1) of Public Premises Act were initiated. A penal rent was also imposed for the preceding ten years ^{aggregating to} ~~amounting to~~ Rs.85,500/- to be recovered from the salary of the applicant. The penal rent has since been reviewed and it was ^{by the respondents} ~~decided~~ to recover the penal rent only from the date of detection of sub-letting, i.e., 3.5.1986. While the applicant went up in appeal to

the Additional District Judge against the order of eviction, dated 25.9.1986 passed under the Public Premises (Eviction of unauthorised occupants) Act, 1971, he has filed this application against the cancellation of the allotment order and other consequential actions of the respondents. The main ground of the application is that the impugned order was passed behind his back without giving him a reasonable opportunity to represent against it. He has also denied the alleged sub-letting and stated that his brother^{had been} found on the premises which he was visiting as a guest.

3. The respondent's case is that the applicant having gone up in appeal against the order of eviction before the Addl. District Judge, Delhi, cannot seek relief from the Tribunal and that in view of the terms and conditions of allotment of Government quarters, the action taken by the respondent is justified.

4. I have heard the arguments of the learned counsel for the applicant and Shri C.S. Chopra, Assistant Superintendent, P.M.G.'s Office, on behalf of the respondents. It transpires that the appeal filed by the applicant before the Addl. District Judge, Delhi has since been allowed in the judgement, dated 21.5.1987. The concluding part of the judgement is quoted below:-

"4. The very circumstance that Raje Singh happens to be the real brother of appellant, coupled with fact that the appellant had also been found residing with his family in the said quarter and there being no evidence to the contrary adduced by the de^{pt} 1, the order of Estate Officer is not sustainable. 5. Merely because the younger brother of the appellant had come to stay with him for few days does not show and prove that he has sublet the part of the premises to him.

5. In view of this, I accept the appeal and set aside the impugned order."

5. In view of the above conclusion and the further fact that the impugned order cancelling the allotment was passed on the basis of an ex-parte inquiry report, we find that the impugned order suffers from violation of the basic principles of natural justice. Accordingly, we allow the application, set aside the impugned order and direct that the applicant should be treated to be in regular possession of the premises in question and no penal rent should be imposed or recovered from him. If any penal rent has already been recovered from him, the same should be refunded within a period of one month of the date of communication of this order. There will be no order as to costs.



(S.P. Mukerji)
Administrative Member