

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1178/90.

Date of decision 18.5.1991

Mr. Charles Toppo
& Ors.

...

Applicant

V/s

Union of India
& Ors.

...

Respondents

CORAM:

The Hon'ble Shri B.S. Hegde, Member (Judicial)

For the Applicant

...

Shri George Parincker,
proxy counsel for Shri J.P.
Verghese, counsel.

For the Respondents

...

Shri P.P. Khurana.

(1) Whether Reporters of local papers may be
allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

J_U_D_G_E_M_E_N_T

[Delivered by Hon'ble Shri B.S. Hegde, Member (J)]

The applicant is aggrieved by the order dated
30th May, 1989 (Annexure II) cancelling the allotment
of quarter No. 8-141, Nanak Pura in the name of Shri
Charles Toppo son of Shri Anthony Toppo, presently
posted as Lower Division clerk in the High Commission
of India, London.

2. The applicant has prayed for the following
reliefs :-

(1) Quash the order of cancellation dated 30.5.89

as illegal, unfair, discriminatory,

ultra vires and violative of Articles

14 and 16 of the Constitution of India.

(2) Direct the respondents not to dispossess the petitioners from the quarter, untill the same is either regularised in favour of petitioner No. 2 or the same is allowed to retain by the son of the petitioner No.1 on payment of normal licence fee.

(3) Direct the respondent No. 3, in the alternate, to allow the petitioner No. 1 and his wife and other dependents to be taken to the place of his son's posting, i.e. in the High Commission of India, London.

3. The brief facts of the case are that the aforesaid Government quarter has been allotted in the name of Anthony Toppo, who was working in the Ministry of External Affairs and on his retirement on 1.6.1985 the said quarter has been allotted in the name of his son, Shri Charles Toppo, who was also working as L.D.C. in the same department. It has been requested that the aforesaid quarter be regularised in the name of Charles Toppo, L.D.C. w.e.f. the date he accepts the allotment. It has also been stated that the allotment

of the said quarter has already been cancelled

in the name of his father vide dated 2.8.1985.

In the said letter a condition was imposed

"if the allotment is accepted, the official

should obtain a rent bill from this Directorate

personally and he will be required to give an

undertaking to clear the arrears of rent, if

any, outstanding against Shri Anthony Toppo

and he will also keep the family of the previous

allottees in this quarter and in the event of his

failure to do so, the allotment is likely to be

cancelled."

4. Subsequent to the regularisation of the quarter, the name of Shri Chales Toppo, he has been transferred to High Commission of India, London on 13.2.1989 in public interest. Consequent upon his transfer to High Commission of India, London, the second respondent vide department letter dated 30.5.1989 cancelled the allotment made in his name with effect from 13.6.1989 after allowing the concession period of four months admissible under the rules and he has been directed to hand-over the vacant possession of the quarter to the CPWD authorities

(2)

and it is further stated that failing which necessary action to evict him under the Public Premises (Eviction of Unauthorised Occupants) Act will be taken etc. On the receipt of this order, the father of the applicant, Shri Anthony Toppo, made a request to the Minister of State for Urban Development vide letter dated 3.5.1989 that in view of the present circumstances the quarter may be transferred and allotted to his younger daughter VKPH Toppo, sister of the allottee, Shri Charles Toppo, who is working as L.D.C. in Army Purchase Organization, Ministry of Defence, Krishi Bhawan, New Delhi. Subsequently, Shri Charles Toppo vide his letter dated 7.6.1989 requested the Minister of State for Urban Development that in view of his sudden transfer to High Commission of India, London he could not think of any other alternative but to retain the quarter allotted to him on compassionate ground. Accordingly, he requested the authorities either to give permission to retain the quarter for a further period of six months or the same may be allotted in the name of his sister, who is also working in the Government. Thereafter, two letters were sent on behalf of the applicant

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by the then Foreign Secretary as well as the Deputy High Commissioner of India, London to the Secretary, Ministry of Urban Development requesting the authorities allowing him to retain the quarter as his aged parents are continued to live therein till he reverted back to Headquarters. There was no reply to any of these correspondence to the applicant by the respondents.

5. In this case, the interim order directing the respondents not to dispossess the applicant from the quarter on 24.8.1990 whereas the petition was filed in the month of April, 1990. Despite repeated direction from the Tribunal to file their reply in order to adjudicate the matter, the respondents did not file a reply till 12.9.1991. The reply filed by the respondents is very short and not clinching the issue and does not answer to the queries raised in the petition.

Para 4.4 of the counter reads as follows :-

" As Shri Anthony Toppo was transferred to an in eligible office, the cancellation of the quarter regularised in his name can not be cancelled. The action in allotment cases are taken in accordance with the provisions contained in allotment rules."

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The meaning of the aforesaid para is not clear because the quarter in question has already been allotted to Charles Toppo and regularised in his name prior to his posting to London. There is no iota on the part of the respondents to the request made by the applicant to concede or reject the same. The reply filed by the respondents is evasive and vague. The applicant has raised a very pertinent point for consideration that in so far as Group 'A' employees of respondent No. 3 are concerned, leave of quarter at the Headquarters from the General Pool and hostel accommodation is provided for the purpose for using as residence for his dependents. Similarly, in the case of Group 'D' staff of the respondent No. 3, they are allowed to retain the same quarter of the general pool even during the period of foreign posting. It is clear from Annexure VI dated 2.11.1989. Therefore, he contends that allowing to retain quarters both by Group 'A' and Group 'B' staff and at the same time denying Group 'D' staff is violative of Articles 14 and 16 of the Constitution and is also discriminatory in nature.

6. Querusive in this, even after passing order of cancellation in the year 1989, the respondents have not taken any action to evict the applicant for more than a

year till this Tribunal passed interim order not to dispossess the applicant from the premises. In the mean while, after his tenure posting in the Indian High Commission, London, the applicant came back to Headquarters and reported for duty on 24.3.1992.

Keeping in view of this Tribunal's judgement - Shri A.K.A.K. Khanna & Others v/s U.O.I. and in the light of the above averment made by the applicant stating that Group 'A' and Group 'D' officials are allowed to retain the quarter, it would be just and proper to extend similar benefits to the applicant otherwise it would itself amount to discrimination, which is violative of Articles 14 and 16 of the Constitution. It is a well known fact that the accommodation in the name of the applicant was made on compassion ground after the retirement of his father who was in service and with a specific condition that he should given an undertaking to keep the family of the previous allottee in this quarter, failure to do so is liable to the cancellation of the quarter. There is no dispute regarding the facts of this case, since the applicant has come back to the headquarters before any eviction order is effected.

Under the circumstances, I do not think that the respondents

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is justified in cancelling the allotment already made on compassion ground. In the circumstances, the O.A. is allowed with the following direction/order :-

- (1) I hereby quash the order of cancellation dated 30.5.1989, which in the light of the above would amount to discrimination and ultra-vires of Articles 14 and 16 of the Constitution.
- (2) Since the respondents have already been directed not to dispossess the applicant and his family from the quarter, it is but natural that the respondents are directed to recover normal licence fee from the applicant from the date of cancellation till he assumes duty in India or till they re-regularise the quarter in his name as the case may be.
- (3) In so far as relief No. 3 is concerned, it becomes infructuous as he has not taken his family to London nor had he sought any permission to do so because the applicant has himself come back and joined duty at the headquarters.

The application is disposed of with no order as to costs.

(B.S. HEGDE)
MEMBER (J)

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