

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2098/90

DATE OF DECISION: 25-10-1991

KHAIRATI LAL

APPLICANT

VERSUS

COMMISSIONER OF POLICE ETC.

RESPONDENTS

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN(J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI A.S. GREWAL, COUNSEL

FOR THE RESPONDENTS

SHRI JAGDISH VATS, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY
HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Shri Khairati Lal, applicant in Original Application No. 2098/90 filed under section 19 of the Administrative Tribunals Act, 1985 has challenged the order issued by D.C.P. 7th Bn. D.A.P., Respondent No.2, directing the applicant to vacate Police Colony, Malviya Nagar, New Delhi Quarter No. 381, from the quota of 7th Bn. D.A.P. A copy of the order, however, has not been placed on the file.

2. The brief facts of the case are that the applicant was dismissed from service by D.C.P., South District, New Delhi vide order No. 13495-565/SD (P-I) dated 14.9.1990. He filed an appeal before the appellate authority, i.e. Additional Commissioner of Police on 24.9.1990 which is said to be still pending. In the meantime the disciplinary authority advised D.C.P. 7th Bn. D.A.P., Respondent No.2 to take necessary action to cancel the allotment of the quarter in favour of the applicant as laid down under Section 27(2) of the Delhi Police Act. The applicant has also submitted an undated representation to the Commissioner of Police to allow him to continue in the said quarter till the departmental remedies are exhausted (Annexure-B to the application).

[Signature]

2. The stand of the respondents is that consequent to the dismissal of the applicant on 14.9.1990, the allotment of the Government quarter in favour of the applicant was cancelled w.e.f. 15.10.1990 vide order dated 21.9.1990 after allowing / the applicant retention of the quarter for one month as concessional period as admissible under the Rule contained in paragraph XVI of the Standing Order No. 3/89. They, therefore, contend that the order passed for getting the quarter vacated is legally valid. The action of the respondents is further supported by the provision made under Section 27(2) of Delhi Police Act. In paragraph six of the counter, the respondents have further stated:

"...the answering respondent had no knowledge as to whether the applicant had filed any appeal before the Commissioner of Police, Delhi, against the order of dismissal. The applicant be put to strict proof of the same."

3. In his rejoinder the applicant has submitted that the allotment of the house has been cancelled by the respondents illegally and without any justification and that he has the right to retain the Government quarter as he was dismissed illegally.

4. In the course of the hearing the learned counsel for the applicant had brought out that the applicant had already challenged the illegal order of dismissal passed by the disciplinary authority in the Tribunal, and that in the present OA he is merely praying that the respondents should be restrained from evicting the applicant from the quarter till he has exhausted the remedies available to him.

5. We have heard the learned counsel for the applicant and the respondents. We observe that the applicant has made a specific averment in his O.A. that he had filed his appeal, against the order of dismissal on 24.9.1990. However, no decision has been conveyed to him. The respondents, however,

[Signature]

12

have not given any precise reply to this averment. Their reply in this regard is in fact evasive and ambiguous.

In the circumstances, we order and direct that the respondents shall decide the appeal of the applicant within a period of 2 months from the date of communication of this order. We further direct that the applicant will not be dispossessed from the Government quarter, subject to his paying the normal rent, till he has exhausted the departmental remedies, which would also include a revision petition, in case his ~~his~~ ^{the} appeal filed by him on 24.9.90 is rejected.

The O.A. is disposed of as above, with no orders as to costs.

I.K. Rasgotra
(I.K. Rasgotra)
Member (A) 25/10/91

Ram Pal Singh
(Ram Pal Singh)
Vice Chairman(J) 25.10.91

/SSM/