

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO. 2537/90

DATE OF DECISION : 24.4.92

SHRI PARMESHWAR DAYAL

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

...SHRI S.K. BISARIA

FOR THE RESPONDENTS

...SHRI K.C. MITTAL

1. Whether Reporters of local papers may be allowed to see the Judgement? *Ys*
2. To be referred to the Reporter or not? *Ys*

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant is a Binding Assistant in the Government of India Press, Mayapuri and was allotted a quarter Type-I/98 Press Colony on 26.2.1988. The allotment of the said quarter was cancelled vide order dt.23.2.1990 and the appeal preferred by the applicant has also been rejected by the orders dt.24.8.1990, 8.10.1990 and 1.11.1990, which have been assailed by the applicant in the present application. The applicant was served with a notice on 15.2.1990 from the respondents to show cause against the cancellation of the official allotment of the said quarter on the ground of subletting. The applicant submitted a

detailed reply, but respondent No.4-Assistant Manager, Government of India Press cancelled the allotment vide order dt.23.2.1990.

2. In this application, the applicant has claimed the relief that the impugned orders regarding cancellation of the allotment as well as the order passed by the appellate authority and the final order dt.1.11.1990 along with the order for deduction of the panel/market rent be quashed and set aside. The applicant has also prayed for interim relief and on 4.12.1990, the application was admitted and the respondents were enjoined not to evict the applicant from Flat No.1/98 Press Colony, Maya Puri. The interim order continued till the hearing of this case on 8.4.1992.

3. The respondents contested the application and stated in the reply that during the month of January, 1990, there was surprise survey by the Survey Committee meant for the purpose and it was found that the applicant had rented Government accommodation to some outsider named Beni and other room was found locked. On the basis of the report submitted by Survey Committee, the applicant was issued show cause notice to submit the reply and after

considering the whole facts, the cancellation in favour of the applicant of the quarter No.1/98 Press Colony, Maya Puri was cancelled. It is further stated that the applicant is Binding Assistant and his family is residing at Lajpat Nagar where the applicant has been residing prior to allotment of the Government accommodation. It is further submitted that the damage rent of Rs.550/- p.m. has been stopped w.e.f. December, 1990 when the interim order was granted in favour of the applicant.

It is stated that the action taken against the applicant is according to Allotment of Government Residences to Officers employed in Government of India Press Rules, 1972.

4. I have heard the learned counsel of the parties at length and have gone through the record of the case and also perused the departmental file and seen the report of the Surveying Committee which went to the spot on a routine checkup of the Government quarters allotted to employees of Press. The applicant stated in the application that he had been using the said quarter for the residential purpose for himself and for his family members. He qualified this statement by another superceding statement that as the children of the applicant were studying in a school near his residence, so the children continued their study in the same school due to mid-term academic year. However, in the representation dt.22.2.1990

(Annexure 2), the applicant has stated that the family comprising of three children stayed at Lajpat Nagar for their educational purposes. It is further stated that the family shifts to him during vacations and he also often visits them temporarily to manage for their day-to-day requirements. It is further stated that he cannot afford to pay the high expenses of the fee etc. in the school available in Press Colony or nearabout. This particular fact in his representation dt.20.2.1990 is contrary to the averment made in para 4(c) of the application. As regards subletting, in the above representation dt.20.2.1990, the applicant has admitted in para-3 that he temporarily allowed in the front portion one student said to be relation of one of his friends for preparing for examinations without charging any rent. Thus the applicant has also admitted that a person other than the family member was allowed to reside in the said allotted quarter and the report of the Surveying Committee, therefore, which is on the departmental file has mentioned the said boy, Bemi residing in the said quarter who could not show any ration card and one of the rooms was also found locked. The copy of the enquiry report on the departmental file is dt.24.1.1990. This also shows that Bemi was living in the said quarter. The survey team consisted of one Lino Operator, two members and Assistant Manager (Admn.). It was not the house of the applicant which was ^{only} checked, but

quarter Nos.124, 99, 92 were also checked. The report of the Survey Committee, therefore, cannot be said to be not genuine or motivated. It is not shown in the application or during the course of the arguments that the members of the Survey Committee were prejudiced against the applicant or harboured any enmity- personal or professional.

5. Sub tenancy or subletting amounts to giving possession to some other person, not a member of the family for consideration. The applicant has admitted that his family is residing in Lajpat Nagar and that he has given one of the rooms to Shri Beml Ram. When this fact is admitted by the applicant, now he has to establish that said Shri Beml Ram was occupying as a guest for some time one of the rooms of the allotted house. The applicant in order to shatter this evidence produced the ration card as well as the CGHS card. The ration card has no meaning as only the first page has been filed with the Enquiry Officer. Further the applicant's own case is that since he has got school going children, they are getting education at Lajpat Nagar where the applicant used to live earlier. In view of this fact, the finding of sub tenancy arrived at by the respondents cannot be said to be in any way infirm or not based on proper

appreciation of facts. Regarding the GHS card, that too is not convincing that the applicant has been constantly living after his allotment with his family members in the allotted quarter. However, the question is not whether the applicant is living in the said quarter with his family members, but whether the applicant has given the premises to a person who is not a family member and that is established from the own admission of the applicant by implication.

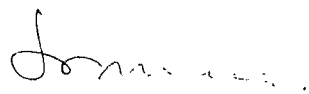
6. The applicant has taken the pretext of keeping his family members at Lajpat Nagar because it is said that the applicant is a low paid Government servant and cannot maintain the high expenses of education for shifting the school of the children in the vicinity of the Government Press locality. However, this is not established as the children of the Press Colony would also be getting education in the vicinity. The respondents in their counter have clearly mentioned that the applicant cannot maintain two separate establishments, one in the Government Press Colony and the other in the old rented house in Lajpat Nagar.

7. I have gone through the impugned orders in this case and these have been passed after observing the due

formalities prescribed under Rule 18 of the Allotment of Government Residences to Officers employed in Government of India Press Rules, 1972. The applicant was given a show cause notice to which he furnished a reply dt.20.2.1990 already referred to above (Annexure 2).

In this reply, the applicant has himself admitted that one Shri Beni Ram was lodged in the said premises and he also admitted an enquiry having been made though in his absence regarding the quarter No.1/98 Press Colony, Maya Puri. He also admitted that his family comprising of three children stayed at Lajpat Nagar for their educational purposes.

8. Taking all these facts into account, the present application, therefore, is devoid of merit and is dismissed leaving the parties to bear their own costs. The stay granted is vacated.


(J.P. SHARMA)
MEMBER (J)