

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA No.2632/90
Shri S.P. Singh

Date of decision:
.. Applicant *24.5.90*

Versus

Indian Instt. of Petroleum
& CSIR

.. Respondents

CORAM

Hon'ble Shri C.J. Roy, Member (J)

For the applicant .. Shri S.P. Singh, applicant in person

For the respondents .. Shri V.K. Rao, Counsel

J U D G E M E N T

The applicant is aggrieved by the orders dated 4th April and 16th April, 1990 cancelling the allotment of accommodation. Briefly stated, the applicant, while working as Deputy Stores & Purchase Officer, a non-scientific category post, in the Indian Institute of Petroleum, Dehradun, was allotted a two-roomed scientific apartment No.S2-25, vide OM dated 30.6.1987 and he accepted the same. After living in the said quarter for nearly 3 years, the applicant was issued with the impugned orders, against which he represented on 9.4.90 and the respondents issued him with an OM dated 16.4.1990 stating that the accommodation in question was meant for scientific personnel and directing the applicant to vacate the same, failing which penal interest would be charged and that it would be treated that the applicant is in unauthorised occupation of the same for which he will be ultimately responsible. Hence this application.

2. The applicant has also filed an MP 3178/90 saying that Dehradun is near to Delhi than Allahabad and therefore this OA may be retained in the Principal Bench so that it would be convenient for himself as well as the respondents to attend the Court in Delhi. This MP is allowed by the Hon'ble Chairman on 14.12.1990,

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3. The respondents have filed their counter reply stating that the allotment has been rightly cancelled as the applicant was not entitled to scientific apartment. They have further stated that allotment in the name of other non-scientists have also been cancelled and they have vacated the premises. The respondents aver that the applicant has made false allegations about the retention of the apartment by other non-scientists, which are not correct, and therefore the application is liable to be dismissed.

4. The applicant has filed a rejoinder more or less asserting the same points which he has raised in his OA and denying the averments made by the respondents.

5. The applicant has also filed another MP saying that he has been relieved from Dehradun on 15.5.91 and has joined the Indian National Scientific Documentation Centre, New Delhi on 21.5.91 and also that he has vacated the apartment in question at Dehradun on 14.6.1991.

6. I have heard the applicant, who appeared in person and Shri V.K. Rao, learned counsel for the respondents and also perused the records and rules for allotment of residential accommodation issued by the CSIR.

7. The main contention of the applicant in the OA is that when he occupied the apartment S-2/25, no terms and conditions were laid down and that he had vacated the rented house he was occupying to take possession of the impugned quarter. Irrespective of terms and conditions, there is a notice of vacation served on the applicant.

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8. The applicant further avers that there are several scientists apartments lying vacant and he has given a list of non-scientists staff who have been allotted similar type of accommodation. He says that the Central Building Research Institute, Roorkee has given relaxation in allotting scientific apartments to non-scientific staff and such a relaxation should also be extended to the employees of the Indian Institute of Petroleum. He alleges that the amount of Rs.1500/- deducted from his salary for the month of September, 1990 is illegal and also the cancellation of allotment is against the principles of eviction rules. He, therefore, claims that the cancellation letter should be withdrawn and that the amount deducted from his salary should be refunded to him with interest.

9. On the other hand, the contention of the respondents is that the allotment of scientific apartment to the applicant belonging to a non-scientific category was not found to be in order as per CSIR guidelines. They say that it was under the direction of CSIR that the Indian Institute of Petroleum had asked the applicant to vacate the quarter. They further say that the applicant's representation alongwith their para-wise comments was sent to the CSIR on 25.5.90 and the CSIR had conveyed its decision on 30.8.90 making it clear that no non-scientist is to be allowed scientific apartment, and the same was conveyed to the applicant on 10.9.90 giving him another opportunity to vacate the scientific quarter on or before 30.9.90, failing which penal rent would be charged. Since he did not vacate it before 30.9.90, he was charged ad hoc penal

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rent of Rs.1500/- p.m. pending fixation of penal rent for scientific apartment by the CSIR.

10. I find from the OM dated 30.6.87 by which allotment of Scientific Apartment was made to the applicant, there is no specific ^{condition} / whatsoever prescribed here, whereas the CSIR's letter dated 6.1.86 speaks out the eligibility condition of scientists for allotment of different types of scientific apartments to them. There is another letter dated 14.4.88 from the CSIR saying that "if the scientists apartments are vacant, these can not be allotted to other categories of employees in accordance with the existing guidelines". One more letter of CSIR dated 17.12.90 says that "scientist-apartments are only meant for scientists and can not be allotted to non-scientists. In view of the above Shri S.P. Singh (the applicant herein) may be asked to vacate the scientist apartment immediately.

11. I also find from the Annexures produced by the Respondents that the applicant was given enough chance to vacate the scientist apartment right from April, 90 to 30.9.90, as is evident from their OM dated 24.10.90, whereas he actually vacated the apartment only on 14.6.91, that too when he ~~was~~ stood relieved from Dehradun on 15.5.91 and joined at Delhi on 21.5.91. Thus he continued to remain ⁱⁿ the quarter upto 14.6.91 on one or other pretext knowing fully well that the quarter in question was meant for only for scientist category and ~~he~~ he had to obey the orders of the respondents by vacating the quarter.

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12. I also find at Annexure R-xiii, a statement of Immoveable & Movable property as declared in the Annual Return by the applicant Shri S.P. Singh, valued at several lakhs of ruppes including owning of an Ambassador Car and a plot worth Rs.81,995/-. On the other hand, the applicant has denied this averment in his rejoinder. However, I feel, this is not germane to the main issue.

13. It may be noted that it has not been disputed that the scientific apartments are meant only for scientific officers. The respondents claim that the applicant does not belong to scientific category but it is not clear as to how the scientific apartment was given to the applicant, despite clarification given by them. It is true that they have given notice on 4.4.1990 to the applicant to vacate the quarter, but the applicant had ultimately vacated it only on 14.6.1991.

14. The applicant has claimed relief for withdrawing the cancellation of allotment order and refund of penal rent of Rs.1500/- p.m. deducted from his salary of September, 1990 without disposing of his representation.

15. It is also observed that the Department has not followed the rules while making allotment of scientific quarter to a non-scientific staff. However, the applicant has no legal right to overstay after he has been asked to vacate.

16. The applicant has cited several cases of non-scientific staff having been allotted scientific quarters. But the respondents have stated that

all the non-scientific staff have vacated the quarters on receiving notice, except the applicant, vide para 2 of the preliminary objection in their reply.

17. It is also not a case that the applicant is entitled to get scientific quarters when the instructions and guidelines issued by the CSIR are very clear that scientific quarters can not be allotted to non-scientific staff. The respondents have denied any malafide in the cancellation of allotment but the same was done in accordance with the CSIR guidelines. They have also cited a similar case where the CSIR has not agreed to allotment of scientific quarter to non-scientific officer, in view of their guidelines and that it is not the applicant who has been singled out and that cancellation order was ^{not} done with any vengeance. The other material mentioned by the applicant are not germane to the main case.

18. The equality of law could be only between equals and not between unequals. If the Department has committed mistake in allotting scientific quarter to a non-scientific officer, it does not accrue to the applicant a legal right.

19. After considering all the pros and cons of the case, it is relevant, from the records and documents produced before me, that the scientific apartment was allotted to a non-scientific officer, against the rules. Also it is clear from the letter dated 14.4.88 issued by the CSIR that if the scientific apartments are vacant, these can not be

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allotted to other categories of employees in accordance with the existing guidelines, whereas the quarter in question has been allotted to a non-scientific officer and penal rent, including normal licence fee, was recovered for the overstay in the said quarter by the applicant. However, the respondents having realised their mistake in allotting the scientist quarter to the non-scientific officer and after consulting CSIR had given enough opportunity to the applicant, starting from April, 1990 to vacate the quarter atleast by 30.9.90. But the applicant failed to do so and ultimately vacated it only on 14.6.1991.

20. Since much can be said on both the sides, on humanitarian grounds, I direct the respondents to reconsider the case of the applicant after receiving a representation from him. This exercise may be completed within a period of three months from the date of receipt of this order.

The application is thus disposed of. No costs.

[Signature]
(C.J. ROY) 24/8/93
MEMBER (J)