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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

.....

O.A.NO.2881/91

DATE OF DECISION: 31.1.92

SH. TRIVENI LAL

....

APPLICANT

VERSUS

UNION OF INDIA & ORS.

....

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

COUNSEL FOR THE APPLICANT : SH. G.D. BHANDARI

COUNSEL FOR THE RESPONDENTS : SH. R.L. DHAWAN

JUDGEMENT

(of the Bench delivered by Hon'ble Sh. T.S. Oberoi, Member(J).

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was allotted one of the quarters No.D-24, Railway Colony, Tuglakabad, New Delhi, kept at the disposal of the Asstt. Controller of Stores (Diesel), Tuglakabad, by the Area Housing Committee, is aggrieved with its cancellation vide order dt. 20.9.91, passed by the Divisional Superintending Engineer/Estate, Northern Railway, New Delhi. His case is that the Asstt. Controller of Stores, Tuglakabad was within his competence to allot the said quarter to him, as was done vide A-2, particularly when the other aspirant, namely, Sh. Qumar Ali is on deputation from S.S.B. to Tuglakabad Depot, and his name was already registered with S.S.B. Depot, for allotment of a quarter, and also, as said Sh. Qumar Ali owns house in a nearby locality, and thus, has no immediate problem for housing accommodation. He has thus, prayed for quashing of the order dt. 20.9.91 (A-5).

2. The respondents have opposed the applicant's prayer,

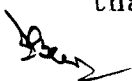


by filing counter, wherein they had urged that the Asstt. Controller of Stores, Tuglakabad, was competent to allot a quarter, according to the normal entitlement of an incumbent, and not out of turn allotment, on medical grounds, for which only the Divisional Railway Manager, Delhi Division, Northern Railway is the competent authority. It was accordingly, urged that the order at Annexure A-5 passed in this regard, is according to the rules, and the applicant has been rightly called upon to vacate the same, with the liability to pay the rental charges, at the penal rate, as mentioned therein.

3. Rejoinder has also been filed by and on behalf of the applicant, wherein it has been submitted that in case, the allotment, as made by the Asstt. Controller of Stores (Diesel), Tuglakabad, was not in order, in any manner, the matter be referred back to the Area Housing Committee, to decide the same, and also once the allotment of the quarter had been made, and the quarter occupied by the applicant, this abrupt cancellation, simultaneously with the order to deposit the penal rent are highly arbitrary and uncalled for.

4. We have given our careful consideration to the rival contentions, as briefly discussed above. We have also perused the material adduced by both the sides on record, alongwith their respective pleadings.

5. In a copy of the order No.290W/16/514 dt. 10.2.1976 has also been placed on record, by the respondents, wherein it has been ordered that the competence for allotment of the quarters on 'out of turn' basis to staff working in Extra Divisional Offices other than Delhi Area having independent pools, will rest with the head



of the department concerned. Keeping the same in view, we are not inclined to accept applicant's plea that the Asstt. Controller of Stores (Diesel) Tuglakabad, was competent to allot to the applicant, the quarter in question, on out of turn basis. As regards the entitlement to any other aspirant, the same has to be done, in accordance with the rules on the subject, by the Competent Authority concerned, and not by Area Housing Committee, which is only a deliberative body, associated with the officers. However, with a view to alleviate any difficulty consequent on the cancellation of the quarter in question, in the name of the present applicant and in the interest of justice, we direct that the applicant may be given a month's time to arrange for the alternative accommodation, and also as, he had occupied the quarter in question, on its being allotted to him by the Asstt. Controller of Stores (Diesel) Tuglakabad, there should be no liability for him to pay at the penal rate of rent, in the event of his vacating the same, with effect from 29.2.91 (afternoon).

6. In result, while dismissing the O.A., the applicant is allowed to retain the quarter till 29.02.92, on payment of normal rate of rent, till that date, failing which the respondents would be at liberty to initiate any action against him, for getting the quarter vacated from him, in accordance with law.

7. O.A. decided accordingly, with no orders as to costs.

31.1.92
(T.S. OBEROI)
MEMBER(J)