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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.3040/91

Date of decision: 13/3/92

Sh.R.A.Khan

.. Applicant.

Versus

Dr.B.M.Arora

.. Respondents.

Sh.C.M.Khan

.. Counsel for the applicant.

Sh.M.K.Gupta

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.I.P.Gupta, Member(A)).

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant was appointed on 1.4.87 as a Education Assistant in the National Zoological Park, New Delhi. By order dated 25.4.88, he was allotted a quarter No.C-4, National Zoological Park, New Delhi, temporarily. By order dated 15th June, 1989 this temporary allotment was cancelled, but this cancellation was set aside by another order dated 28th June, 1989. In effect, therefore, the order dated 25.4.88 continued to be in force. The Director of the National Zoological Park issued order dated 18.11.91 mentioning inter alia that the applicant who belonged to non-essential category staff and was allotted residential quarter No.C-4, National Zoological Park should in view of ^{rules} ~~to~~ vacate the said quarter within a month's period since this was required for Zoo Rangers, who had resumed duty in the National Zoological Park. By another memorandum dated 13.12.91 the quarter No.C-4 was allotted to Zoo Rangers. The applicant made a representation to the Director,

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National Zoological Park vide his letter dated 13.12.91 for reconsideration of the order dated 18.11.91. But this representation has not been answered.

2. The relief sought/^{is} for cancellation of the order dated 18.11.91 and setting aside the order dated 13.12.91 i.e. cancellation of the allotment of quarter to the applicant and its allotment to a Forest Ranger.

3. Learned counsel for the applicant contended that:-

1) The order dated 18.11.91 mentioned about one month's notice, but the quarter was allotted to a Forest Ranger on 13.12.91, before the expiry of one month.

ii) The applicant had been discharging the duties of Security Supervisor and was also looking after other duties in addition to that of Education Assistant.

iii) The administrative Officer and the Curator who are Gazetted Government Servants and who were entitled to 'B' Type accommodation were occupying 'C' Type quarters, resulting in congestion (iv) There are no clear cut instructions as to who is a staff belonging to essential category. The order dated 21st August, 1991 mentions some categories, but Sanitary Inspectors, who are not mentioned therein were also allotted accommodation.

4. Learned counsel for the respondents contended that according to Rule 3 of the Delhi Zoological Park (Allotment of Quarters) Rules, 1960, Class



III quarters were to be allotted to such essential services staff (Class III) of the Delhi Zoological Park, whose presence in the premises of the Zoo was ~~xxxxx~~ deemed absolutely essential by the Superintendent of the Zoo. Therefore, the essentiality of the stay in the premises was to be considered by the Superintendent of the Zoo, who was also the Director of the National Zoological Park. He further pointed out that the quarters of 'B' Type are meant for Joint Director and Veterinary Officer and these posts are in the process of being filled up. The learned counsel also pointed out that though the applicant was asked to discharge duties of Security Supervisor for some period, he ceased to function as such after the appointment of Security Supervisor and in any case he has not been discharging his duty after the later part of 1990.

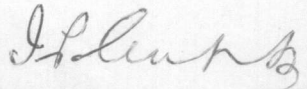
5. Analysing the points it is observed that a Class III quarter (Type 'C') is to be allotted to such staff whose presence in the premises of the Zoo is deemed to be absolutely essential. The Superintendent of the Zoo is the appropriate authority to consider whose presence is required and whose not. Keeping in view the functions of the Forest Ranger the Director of the National Zoological Park has considered their stay to be more essential than that of Education Assistant and we cannot find any fault with this. The cancellation of the allotment was done by order dated 18.11.91 with one month's notice. This period of one month was for vacation of quarter. The memorandum dated 13.12.91 was for allotment of a quarter to a Forest



Ranger. It did not specifically direct that the existing occupant should vacate on 13.12.91 itself and not by 17.12.91. Therefore, by virtue of order dated 18.11.91 the applicant was within his rights to continue his occupation of the quarter till 17.12.91 despite the order of allotment dated 13.12.91 in favour of a Forest Ranger.

6. In the conspectus of the aforesaid facts no illegality is observed in the order dated 18.11.91 nor in the order dated 13.12.91. However, since Type 'B' quarters are vacant, as admitted, by the respondents and since Class II Officers are not eligible for Class III quarters, according to rules, when eligible officers are available, the respondents should consider any adjustment as may be feasible with a view to minimising the problems of the employees. Such adjustment has, however, to be in accordance with the rules. The respondents are directed to consider the application of the applicant dated 13.12.91 and dispose it of within a period of one month with a speaking order, after having considered any feasible adjustment, as mentioned above, within the ambit of the rules. During the period of such consideration of the application dated 13.12.91 of the applicant within a period of one month the applicant should not be disturbed from his existing accommodation.

7. With the aforesaid direction the application is disposed of with no order as to costs.


(I.P. GUPTA) 13/3/92
MEMBER(A)