

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 964/2004

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New Delhi, this the 19th day of April, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

Jagat Pal
S/o Late Budhram Ram
R/o-29, Kotwali Road
Delhi Cantt-110 010.

(By Advocate Sh. A.K.Trivedi)

...Applicant

V E R S U S

Union of India through

1. Secretary
Ministry of Defence
South Block, New Delhi..
2. The Station Commander
Station Headquarters
Delhi Cantt-110 010..
3. The Chief Engineer
HQs, Chief Engineer
Delhi Zonen, Delhi Cantt-10..

...Respondents

O R D E R (ORAL)

Shri Sarweshwar Jha,

Heard. This OA has been filed by the applicant against the orders of the respondents dated 7-4-2004 whereby he has been directed to vacate the accommodation No.29, Kotwali Road, Delhi Cantt immediately. The applicant has prayed that the said order be set aside and the respondents be directed to allow him to retain the said accommodation till he is allotted/shifted to an alternative accommodation appropriate to his status and till the next academic session of 2004-05.

2. Facts of the matter, briefly, are that the applicant, who is an Executive Engineer and was posted as DCWE (B/R) in the office of Commander Works Engineer (Military Engineering Service) Delhi Cantt-10 on 19-5-2003

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under the control of Chief Engineer, Delhi Zone, Delhi Cantt, was allotted Govt. accommodation No.29, Kotwali Road, Delhi Cantt on 29-8-2003 vide allotment order dated 29-8-2003, a copy of which is placed at Annexure A-2. The applicant has since been transferred from the office of CWE, Delhi Cantt to the office of Chief Engineer (Airforce) Palam, Delhi Cantt on promotion w.e.f. 11-9-2003 and to which post he has since reported, and, he is presently working against the said post. In the new organisation, there has been no accommodation of the type, to which the applicant is entitled, available. He has requested that he may be allowed to retain the present accommodation. He has submitted that his case has been duly recommended by the authorities concerned vide Annexure A-5, in which it has also been mentioned that he may be authorised to retain the said accommodation till 31-3-2004. The applicant appears to have followed up the matter with his representation dated 16-3-2004 together with a non-availability of accommodation certificate as submitted to respondent No.2 through proper channel requesting him to allow him to continue in the present accommodation till next academic session 2004-05 (Annexure A-4).

3. The applicant has referred to the instructions of the concerned authorities that in the event a civilian officer is transferred from one unit to another unit, he is allowed to continue in the same accommodation till such time an alternative accommodation is made available to him in the new unit. He has also referred to the instructions of the concerned authorities whereby accommodation of lower type is also offered in such cases. He has submitted that no such offer has been made to him. Reference in this regard has

Jawahar Mehta

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also been made to the instructions of the concerned authorities as issued on 10-11-94 (Annexure A-6). In this connection, he has also referred to SRO 308, a copy of which has been produced before the Bench. On perusal of the said SRO, while it is not found that there are any specific instructions on retention of accommodation previously allotted, there are instructions regarding alternative accommodation of the same type or in emergent circumstances, an alternative accommodation of the type next below the type the officer is entitled to if the accommodation of the officer is required to be vacated.

4. The fact of the matter essentially is that the applicant has been transferred to another Unit within the Delhi Cantt area itself and the new Unit has no accommodation of the type to which he is entitled. Accordingly, a non-availability certificate also has been issued and is placed on record. Under these circumstances, it does not appear quite inappropriate on the part of the applicant to have made a request that he should be allowed to retain the accommodation that has already been allotted to him earlier. He has also placed reliance on the decisions of this Tribunal in OA 1965/91 with connected matters decided on 3-4-92 in which the following view has been taken :-

Transfer is an incidence of service and if a person from one place of posting to the other place of posting within the same metropolitan city is transferred then unless he is provided with alternative accommodation, it shall be harsh and unjust to levy market rent as well as to evict him from the said premises without providing him with an alternative accommodation of his status. Though it is said to be Government married key personnel officers quarters, yet the respondents have to see that if a permission has been allowed at one time, as has been done in 1983 as well as when the applicant



was on tenure posting, then why the permission should not be assumed to be granted when the applicant has joined on transfer to Delhi.

5. Having regard to the facts and circumstances of the case and also the decisions referred to by the applicant in support of his prayer, I am inclined to refer this matter back to the respondents with directions that they may give a fresh consideration to the prayers which have been made by the applicant in the light of the instructions as referred to by him and copies of some of which are also enclosed with the OA and to dispose of the matter by issuing a reasoned and speaking order as per law. They are also directed to consider this OA treating it as a representation of the applicant. It will be appropriate if the applicant is given a personal hearing so that he could file the relevant papers/records if required by the respondents in the matter. The above exercise shall be completed by the respondents within a period of one month from the date of receipt of a copy of this order.

6. The OA thus stands disposed of at the admission stage itself. Before parting with this decision, it is, however, made clear that I have not opened up my mind on the merits of the case. The respondents are, however, directed that they will not disturb the status of the applicant till such time that they have considered the matter and disposed it of by issuing a reasoned and speaking order. The applicant shall have liberty to approach this Tribunal, if so advised, his grievance still survives.

Issue DASTI.


(Sarweshwar Jha)
Member (A)

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