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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1316/92

Date of decision 3.8.1993

Sh. Manohar Prasad Applicant

V/s

U.O.I. & Ors. ... Respondents

FOR THE APPLICANT ... Sh. J. P. Verghese, counsel

FOR THE RESPONDENTS ... Sh. P. P. Khurana, counsel

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Hon'ble Sh. B.S. Hegde, Member(J)

JUDGEMENT

[delivered by Sh. B.S. Hegde, Member(J)]

This petition has been filed by the applicant under Section, 19 of the Administrative Tribunals Act, 1985 praying for a direction to the respondents to set-aside the impugned order dated 23.8.91 (Annexure A-1) and alternatively to allot suitable accommodation to the petitioner. By order dated 23.8.91 the applicant's allotment of flat No. D-11/10, Cornwallis Road, New Delhi was deemed to have been cancelled as he had not paid the licence fee with effect from 15.2.90, the date on which he was allotted accommodation. He was also directed to pay the damages at the rate of Rs 21/-45/- per sq.meter per month.

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2. Learned counsel for the applicant

Sh. J. P. Verghese, contended that w.e.f. 15.2.90, the

applicant was working as Private Secretary to the Minister of Labour and Welfare. As he was not paid any salary due to some administrative reasons, the rent of the house had not been deducted by the Welfare Ministry and remitted to the Estate Office. It was further submitted that he was willing to pay the licence fee on his own. In this connection, he has filed letters dated 23.5.91 and 1.2.92 intimating the Director of Estates about his non-fixation of pay on account of that he could not make the licence fees. He also stated that if the same was not settled shortly, he would personally remit the same. Later on he was appointed as General Manager of newly established Corporation, namely, National SC/ST and Development Corporation, New Delhi (herein after referred to as NSFDC) for a short period and, therefore, he requested the Estate Officer to allow him to retain the above accommodation on payment basis which is permitted under the rules vide O.M. dated 24.10.85 issued by the Director of Estates, reproduced below:-

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"The Office Memo dated 24.10.85, issued by the Directorate of Estates vide para i(iii) of their O.M. No.12016(2) 85-Pol.GI (Vol.III) dated 24.10.1985" Where services of government officials are made available to corporations/undertakings/organisations, at the time of initial constitution, such of the Government Officers who are allottees of general pool accommodation may be allowed as a special case, to retain the accommodation for a period of two years".

3. The main contention of the learned counsel for the applicant is that non payment of rent is not a ground for cancellation of accommodation. The reason been for non payment of amount has already/brought to the notice of the Directorate of Estates vide his letter dated 23.5.91 and 1.2.92 respectively. It is incorrect to state that he has not brought to the notice of the Directorate of Estates/ appointment/posting as the General Manager in National Scheduled Castes and Scheduled Tribes Finance and Development Corporation which was shown at the instance of the Ministry and not of his own violations. Therefore, the respondents have without application of mind/not given any heed to his request on the basis of the cancellation made vide letter dated 23.8.91 Directorate of Estates issued a order under Section 5 of the Public Premises(Eviction of Unauthorised Occupants) Act, 1971 dated 1-5-92 which is not in accordance with the provision of law. The said order require to be quashed.

4. Learned counsel for the respondents, Sh P.P. Khurana, appeared on behalf of the respondents contended that non payment of salary by the department should not be/ground for non payment of licence fee, in respect of Government accommodation allotted to the

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applicant he is duty bound to clear the licence fee as per law and he has already stated that the applicant has not intimated to the respondents regarding the fact of his being appointed to a corporation which is an ineligible office for allotment of General Pool Accommodation.

5. It is on record that the applicant worked with the corporation for a short while and return back to his parent department vide order dated 7.9.92 and joined as Director Dr. Ambedkar Foundation on the very same day. During the course of hearing, the learned counsel for the applicant submitted that all arrears of rent have been ^{paid} upto 1.7.93 and therefore, cancellation order requires to be quashed. The question is whether the applicant is eligible to hold the accommodation while he was on deputation to the corporation. In view of the O.M. issued by the respondents, it is permissible for the applicant to retain the Genl. pool accommodation for a period of two years. Therefore, the contention of the respondents that the office which he already held in the corporation was ineligible office for allotment of Genl. Pool. Accommodation is incorrect, and not sustainable. There is no justification for

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the Respondent in cancelling the accommodation for non payment of licence fee and with the tacit approval and knowledge of the Respondents that the General Pool Accommodation was allotted to him while he was working as Private Secretary to the Minister from where he went on deputation as General Manager to the Corporation and he return back to his parent department before the expiry of two years period. Therefore, the contention of the respondents is not legally tenable. Since the applicant has already paid the rent as per law till 1.7.93, there is no justification for the respondents to cancel the accommodation already allotted to him. The reason for non payment has elaborately be explained to the Directorate of Estates by the applicant for which he could not be blamed.

6. In the light of the above, I held that the cancellation order issued by the respondents vide order dated 23.8.91 (Annexure A-1) requires to be quashed. The same is accordingly, quashed and set aside. In case the applicant has not been removed from the said accommodation so far he should be allowed to continue the said accommodation subject to payment of normal rent as per law. O.A. is accordingly allowed and

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and the same is disposed of with the following directions:-

1. The main order dated 23.8.91 is hereby quashed and set aside. If the applicant has already evicted from the premises in question, he should be given an alternative suitable accommodation, in case he has not been removed from the quarter, he may be allowed to continue in the said quarter subject to payment of normal rent.
7. O.A. is allowed with no order as to costs.

B.S. Hegde 27/8/93
(B.S. HEGDE)
MEMBER(J)