

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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C.A. NO. 1772/92

Date of Decision : 18.09.92

(A)

Shri K.J. Kakanwar

...Applicant

Vs.

Union of India & Ors.

...Respondents

JURAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri P.I. Oommen

For the Respondents

...None

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporter or not? *No*

JUDGEMENT

The applicant is working as Deputy Director, Central Social Welfare Board and assailed the order passed by Directorate of Estates dt. 30.12.1991, notice issued by the Directorate of Estates dt. 10.2.1992 and the letter of the Estate Officer dt. 3.6.1992 (Annexures A5, A6 and A10 respectively). The applicant has prayed for the reliefs that the order of cancellation of allotment dt. 30.12.1991 as well as the eviction order dt. 3.6.1992 be quashed and the respondents be directed to regularise the accommodation allotted to the applicant, i.e., 619 Laxmibai Nagar, New Delhi.

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2. It is not disputed that the said premises 619 Laxmibai Nagar is a general pool accommodation of the Central Government under the Directorate of Estates. It is also not disputed that the applicant is an employee of Central Social Welfare Board, Samaj Kalyan Bhawan, New Delhi. That department is under the department of Human and Children Development, Ministry of Human Resources and Development, Shashtri Bhawan. It is also not disputed that the department in which the applicant is working is a non eligible office for allotment of general pool accommodation. The applicant was appointed as Assistant Private Secretary to the Finance Minister on 26.2.1991 and by virtue of this appointment as Assistant Private Secretary, the applicant was allotted a Government quarter No.619, Type- IV, Laxmibai Nagar, New Delhi by the Directorate of Estates by the letter dt. 1.5.1991 (Annexure A2) only on adhoc basis. There is a note appended at the bottom of this that the allotment shall be made if the applicant is still working as Assistant Private Secretary in the personal staff of the Finance Minister. However, the applicant was relieved from the said office on 15.8.1991 and he was reverted to the

parent office, i.e., Social Welfare Board, New Delhi

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where he joined on 16.8.1991. Since the quarter was allotted to the applicant only when he was in the personal staff of the Finance Minister, so on his reversion to the parent department, the allotment in favour of the applicant was cancelled by the order dt. 30.12.1991 (Annexure A5). The applicant has made a request to the Director, Directorate of Estates on 19.9.1991 for permission to retain the Government accommodation through the Joint Director (Admn.), Central Social Welfare Board that the applicant be allowed to retain the quarter till such time the staff quarters of the Board are constructed. However, the Assistant Director of Estates by the impugned letter dt. 30.12.1991 informed the applicant that since the applicant has been reverted to his parent department, which is non eligible office, so the allotment of the above house deemed to have been cancelled in his name w.e.f. 16.10.1991 after allowing the concessional period of two months admissible under rules. The applicant did not vacate the said accommodation and so the Assistant Directorate of Estates issued a show cause notice

under sub clause 1 and clause b of sub section 2 of

Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The applicant was asked to show cause by 13.5.1992. The applicant did not appear and he requested for an adjournment himself and through the department that he will be away to Bangalore on 13.5.1992. The Director of Estates passed an order of eviction on 3.6.1992 (Annexure A10). That has also been assailed by the applicant in this case.

3. I have heard the learned counsel regarding admission and interim relief. Basically the learned counsel could not show any rule where applicant belongs to the department where the general pool accommodation can be allotted. The learned counsel has cited certain instances, but that will not make a sound precedent. The applicant himself has filed OM dt. 6.7.1991 issued by the Directorate of Estates on the subject of eligibility of the Chairman of the Central Social Welfare Board for the general pool accommodation and a perusal of this letter shows that the existing employees of the Board, who are in occupation of the central accommodation,

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may be allowed to retain the accommodation till 30.6.1981.

Thus those employees, who were already occupying the accommodation of general pool were allowed. Subsequently

only the Chairman and one Mrs. Perminder Hira, an IAS

officer have been allowed as a special case. This does

not create a sound precedent to help the case of the

applicant. In fact, there are specific rules and

instructions issued by the Directorate of Estates for

allotment of general pool accommodation to the Central

Government employees. There are certain non eligible

offices to which the general pool accommodation is not

provided. Though the applicant has pursued the matter

up to the Hon'ble UDM, but for the Court to decide a

matter dehors the rules will create a precedent totally

against the rules. The case of the applicant cannot be

singled out in this regard to make allotment in favour

of a person working in a non eligible office. Thus the

applicant has no prima facie case for allotment as general

pool accommodation and the order of cancellation after

the applicant reverted to the parent department on 30.12.1991

cannot be interfered with. It is not the case of the

applicant that earlier to his appointment as Assistant

Private Secretary to the Finance Minister, he was also

having the possession of any accommodation of general pool.

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4. Regarding the show cause notice issued to the applicant, a date was given as 13.5.1992 for the applicant to appear, but the applicant did not appear on that date and he was away at Bangalore. However, the tour programme filed by the applicant goes to show that the applicant was very much here on 15.5.1992 and the applicant could have pursued the matter on that date. The applicant did not care to file any reply to the show cause notice which was duly served on him and when no reply was filed even after the date and before the order dt. 3.6.1992 was passed, the applicant cannot have any say in the matter now. Thus the show cause notice dt. 13.5.1992 as well as the order dt. 3.6.1992 cannot be faulted. Thus prima facie, the applicant has no case.

5. The notices were issued also to the respondents, but none of them appeared in this case. So the applicant has been heard at length. The application is, therefore, dismissed as no prima facie case has been established at the admission stage itself under Section 19(4) of the Administrative Tribunals Act, 1985.

J. P. SHARMA
18.4.92
(J.P. SHARMA)
MEMBER (J)