

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL 13
PRINCIPAL BENCH: NEW DELHI

OA 1856 OF 1992

New Delhi this the 30th day of January'1995

Hon'ble Shri P.T.Thiruvengadam, Member (A)

Shri Jagdeep Singh
S/o Shri Sadhu Singh
R/o Quarter No.6, Type-II,
At C.P.W.D. Enquiry Officer,
Shahjahan Road, New Delhi
Presently working at 6/N Sub Division
as a Works Assistant.

.....Applicant

By Advocate Ms. Anju Doshi

Versus

1. Union of India
(Service to be effected through Secretary)
Ministry of Works & Housing, Nirman Bhavan,
New Delhi).
2. Superintendent Engineer,
Central Public Works Department, I.P.Bhavan,
New Delhi.

.....Respondents

By Advocate Shri M.K.Gupta

ORDER (Oral)

Hon'ble Shri P.T.Thiruvengadam, Member (A)

The applicant was working as Plumber in 2/N Sub Division of N Division CPWD. While functioning as such he had been allotted a quarter by the Executive Engineer from the pool meant for the staff engaged on maintenance of residential accommodation. The office order dt. 8-8-74 by which such allotment was made to the applicant and further orders dt. 23-1-80 clearly mention that the said quarters are meant for staff on maintenance activities and that the staff shall vacate the quarters on their transfer within three weeks.

The applicant got promoted as Works Assistant and was moved to 6/N Sub Division under the same Executive Engineer.

...2/

u

The applicant continued to retain the same accommodation inspite of the letter of the Executive Engineer dt. 24-10-91, immediately after the promotion of the applicant on 27-6-91 and his posting in 6/N Sub Division vide orders dt. 8-10-91. By the letter of 24-10-91 the applicant was given notice to vacate the premises within three weeks stating that the quarter occupied by him is reserved for essential services staff. This letter also indicated that after the stipulated period of three weeks, market rent would be charged. However on representation by the applicant retention of accommodation was allowed upto June '92. No further extension was granted, and by letter dt. 20-6-92 further orders were issued for vacating the said premises by 30-6-92. This OA has been filed praying that the applicant should be allowed to continue in the accommodation allotted to him in the year 1974.

The Ld. Counsel for the applicant advanced the following grounds in support of the case.

- i) The accommodation should be vacated only if transfer takes place and in his case it was not a transfer but a promotion.
- ii) On a representation by the applicant which was forwarded by the Executive Engineer the Asstt. Director of Estates advised by his letter dt. 18-8-92 (Page-8 of MA No. 4126/94) that the Director of Estates had decided to sanction adhoc allotment of type-B accommodation without restriction of locality/floor on NAV basis to the applicant. In view of this decision it was argued that the applicant should not be evicted till the alternative accommodation as per this decision is made available to him.
- iii) There are a number of similar cases where employees have been allowed to retain the accommodation even on transfer/promotion.

Ld. Counsel for the respondents argued that the quarter meant for essential service staff incharge of the

15

maintenance of residential accommodation in that area can not be allowed to be retained by the applicant, since the other staff who have joined in the place of the applicant and similar others have to be necessarily provided accommodation. He also argued that on promotion even without a shift from one Sub Division to another Sub Division, the accommodation has to be vacated, since what is relevant is whether the employees continued to discharge the essential duties which were meant to be discharged by those for whom the accommodation had been earmarked. This is a case where the applicant had taken over a Supervisory post and had also been shifted from one Sub-Division to another.

With regard to the letter of 18-8-92 issued by the Asstt. Director of Estates ^{it} was argued that it is for the Directorate of Estates to allot alternative accommodation as deemed fit. Any delay in the allotment of general pool accommodation can not lead to the applicant continuing in the earmarked house meant for specific staff. It is for the applicant to pursue the case regarding adhoc allotment with the Directorate of Estates. It was further mentioned that the Directorate of Estates has not even been impleaded as one of the respondents.

As regards alleged similar cases where retension has been allowed, the Ld Counsel for the applicant mentioned that an additional affidavit has been filed in July'1992 listing out such cases. It was correctly argued by the Ld. Counsel for the Respondent that this additional affidavit has not been taken on record and no notice had been issued to the respondents. It was contested that these papers can not form a part of the pleadings. Apart from this the reasons for such consideration wherever shown would be related to the facts and circumstances of those cases. It is also not known whether these employees are being charged market rent and are being proceeding against departmentally.

A

I note that the applicant is in occupation of accommodation earmarked for maintenance staff. On promotion as Supervisor, the applicant was not eligible to continue in this accommodation. Hence the action taken by the respondents for getting the quarter vacated can not be faulted. However I observe that the Asstt. Director of Estates in his letter dt. 18-8-92 had conveyed the decision to sanction adhoc allotment to the applicant on NAV basis. This by itself can not give a right to the applicant to continue in the accommodation originally under his occupation. All the same the said letter gave hopes to the applicant that he would be getting alternative accommodation. In the circumstances the retention of the accommodation beyond 13-6-92 should not result in market rent being levied by the respondents. While come to this conclusion I also take into account the Interim order passed by this Tribunal for retention of the accommodation from the time the CA was filed.

To enable the applicant to make alternative arrangement, I direct the respondents not to proceed with the eviction for a period of three months from today, till the end of April⁹⁵. This will also enable the children of the applicant to complete their school studies. The rent to be charged should be normal license fee till the end of the April'95. At this stage the Id. Counsel for the applicant produced a copy of order dated 18-12-91 in OA 1563/91. This case relates to a Junior Engineer of CPWD who was sent on deputation to Delhi Administration. The applicant therein had been allotted a general pool accommodation and it was ordered that till an alternative accommodation is allotted by Delhi Administration the applicant should be allowed to continue in the general pool accommodation. On a perusal of this ~~the~~ order I note that this is a case of deputation and also the orders passed have been given in the facts and circumstances of the case. The case before me is one where the accommodation is required by essential staff and the controlling department needs this for providing accommodation to a staff who is charged with the essential work of maintenance. In the circumstances the order cited does not help the case of the applicant.

17

Accordingly the OA is disposed of with the direction as above namely that the applicant shall be allowed to continue in his present accommodation till the end of April'95 and respondent shall charge normal rent from 1-7-92 till end of April'95. No costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)

cc.