

13

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...
O.A. No. 1992 OF 1992

18th Day of November, 1993

(B)

Hon'ble Mr. B. K. Singh, Member(A)

Dr K. S. Puri
S/o Shri G. S. Puri
D-1/129, Chanakyapuri
NEW DELHI Applicant

By Advocate Mr D. N. Geburdhan

Vs

1. Union of India through
Director of Estates
Nirman Bhawan
New Delhi

2. Estate Officer
Directorate of Estate
Nirman Bhawan
NEW DELHI. Respondents

By Advocate - None.

ORDER

Hon'ble Mr. B. K. Singh, Member(A)

This O.A. No. 1992/92 Dr K. S. Puri as Applicant
Vs Union of India and Others as Respondents has been
filed against the order of Estate Officer, Directorate
of Estates, Department of Works and Housing,
Ministry of Urban Development which was also upheld
by the learned A.D.J. Heard the learned Counsel
Mr D. N. Geburdhan for the Applicant. None was
present on behalf of the Respondents. Perused

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records of the case. The O.A. is directed against the order No. EC/95/DD/LIT/TE dated 26.4.91.

This is the eviction order passed by the Estate Officer of the Ministry of Urban Development.

The Applicant went in appeal to A.D.J. who has been notified as the competent authority to hear the appeal against the order of the Estate Officer in eviction proceedings under Public Premises Act, 1971.

The Applicant is an IAS officer of 1963 batch and is allotted to Nagaland IAS cadre.

The Applicant joined the Ministry of Agriculture on deputation and he was allotted a quarter No. D-1/129 which he occupied on 5-6-1984. He had joined the Ministry of Agriculture on 30th May 1984. On 5-3-1987, he joined North Eastern Council (Annexure-B of the paper book).

The allotment was cancelled w.e.f. 6-5-1987 vide letter No. 60/60. As per rule of the allotment, an officer is allowed to retain a general pool accommodation for a couple of months in normal circumstances. He can retain it for 4 months on the recommendation of the Ministry under which he works on payment of normal license fee. Thus, an officer reverting to his parent cadre is entitled to retain the government quarter on payment of normal license fee for 4 months provided the fee is deducted from the salary and paid by the department to the Assistant Director(Cash) of the Directorate of Estates. In the present case it is clear that

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Dr Puri ~~haven~~ made a request to his Ministry i.e. Ministry of Agriculture to deduct 4 months license fee from his salary and to credit the same in the account of Assistant Director (Cash) of the Directorate of Estates. If an officer wants to retain the public premises under his occupation for another 4 months, he will have to file an affidavit to the effect that he requires the public premises ~~for~~ for the bonafide use of self/wife/children either for purposes of medical treatment or for the purpose of children's education. An affidavit on a non-paper judicial stamp has to be furnished along with double of license fee to the Director of Estates. A medical certificate or a certificate from the educational institute where the son/ daughter is studying, has to be furnished in case it is on ground of education. A medical certificate has to be furnished if the premises are to be retained on ground of health. The perusal of the record indicates that none of these formalities were followed by Dr K. S. Puri. Ignorance of rules and procedures cannot be taken as an excuse by an officer of 1963 batch. He is expected to know rules and to follow them.

At the time of filing the D.A., Dr Puri was working as an Adviser to the Government of Nagaland in the pay scale of Rs.7300-100-7600/-.

The North Eastern Council is an organisation under Government of India, Ministry of Home



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Affairs and when he joined there in March 1987, it was treated as on deputation to North Eastern States under the administrative control of the Ministry of Home Affairs. As an Adviser to the Governor of Nagaland, he cannot be treated as on deputation because Nagaland is his parent cadre. O. M. issued by Ministry of Urban Development No.12035(24)/77/Pol-2 dated 2-7-1987 stipulated that an officer who was on deputation to Government of India and subsequently reverted to North Eastern States could be entitled to retain a quarter one grade below his entitlement for two years. The Director of Estates, Department of Works and Housing, Ministry of Urban Development did write to Dr Puri to vacate D-1/129, Chanakyapuri and apply for D-2 flat either in the same colony or in some other colony. O.M. No. 12036(24) dated 30th March 1985 also stipulated that a person reverting to North Eastern States could be entitled to retain a quarter one grade below his entitlement for a period of two years on payment of normal license fee. Offer of D-II type quarter was confirmed. A copy of the said order dated 20.1.87 has been placed as Annexure-D. Dr Puri made a request on 24th May 1988 for retention of his quarter D-1/129 in Chanakyapuri. This request was not acceded to. In view of the cancellation of the allotment w.e.f. 6-5-87 (which is at Annexure-E of the paper book) for non-

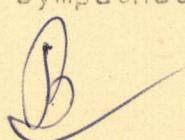


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observance of required formalities, the Applicant made a representation to Mr G. S. Somiah, the then Secretary(Home), Government of India vide his letter No.NEC/ADM/19/87 dated 15th June 1988 for retention of the said flat. Mr R. Vasudevan who was working as Joint Secretary in the Ministry of Home, while enclosing a copy of the representation, made a request to his counterpart in the Ministry of Urban Development, Mr Indrajeet Choudhury to allow Dr K. S. Puri to retain the general pool accommodation(Flat No.D-1/129 in Chanakyapuri).

The letter of Mr Vasudevan was in response to a letter sent to him earlier by Mr R. K. Tikku who was Secretary of the North Eastern Council at that time. The letter of Mr Vasudevan dated 15th April 1988 is (Annexure-F) of the paper book. It is pertinent to point out that during this period Dr K. S. Puri did not observe the formalities of approaching the Ministry of Urban Development for allotment of a D-2 flat in lieu of D-1/129 in Chanakyapuri. A perusal of the records also shows that Shri Loknath Misra, Governor of Assam who was also Governor of Nagaland, wrote a letter to Mrs Sheila Kaul, Union Minister for Urban Development, to consider the case of Dr Puri sympathetically. A show-cause notice was



Contd...6

issued under Section 4 of the P.P. Act, 1971 dated 16-4-91. Dr Puri replied to the said notice on 21st May 1991. There is an averment in the application that he was a Fellow in the University of Oxford and had been sent there on the recommendation of Government of India and the Government of Nagaland vide their Order dated 30.4.90. The order of cancellation was served on 7th June 1991 by said officer after considering the show cause submitted by Dr Puri. Dr Puri had also submitted a detailed representation on 20th May 1991 along with show cause.

Eviction Order passed on 31st May 1991 was delivered on 7th June 1991 to the maid servant who was living in D-1/129 in Chanakyapuri. Against the order of eviction, Dr Puri filed an appeal before the learned A.D.J. The Estate Officer, in the present case, has strictly followed the provisions contained in Section-4 & 5 of the P.P. Act, 1971. The show cause notice was given to Dr. Puri who in response filed his show cause along with detailed representation. He also engaged an Advocate who also was heard and it is only after he had gone into all the details that the orders of eviction were passed. Section-5 of P.P. Act, 1971 reads:

"(i) If after considering the cause if any, shown in pursuance of notice under section-4 or any evidence produced by him in support of the same and after personal hearing



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if any, the Estate Officer is satisfied that the premises are in unauthorised occupation, the Estate Officer may make an order of eviction for reasons to be recorded therein directing the public premises shall be vacated on such a date as may be notified in the order;

(ii) If any person refuses or fails to comply with that order of eviction on or before the date specified in the said order or within 15 days from the date of its publication under Sub Section(I) whichever is later, the Estate Officer or any other officer duly authorised by the Estate Officer in his behalf may, after the dates as specified or after the expiry of the period whichever is later, evict that person and take possession of the public premises and may for that purpose use such force as may be necessary under Section-6 & 8."

The Estate Officer is vested with the same powers as is vested in the civil courts under the code of civil procedure for trying a suit in respect of summoning and enforcing attendance of any person and examining him on oath and requiring discovery and production of documents.

Under the provisions of Section-9, " an appeal lies against every order of Estate Officer in respect of any public premises to the District Judge of the district in which the public premises are situated or such other officer in that district of not less than 10 years standing as District Judge may designate on his behalf." Under Sec-10 of the P.P. Act, 1971, the orders of the Estate Officer and the Appellate officer so notified are final and cannot be called in question.

In the instant case, in order to delay the eviction proceedings, the Applicant preferred an appeal to A.D.J. who has been notified as the Appellate Authority by the District Judge. The learned A.D.J. after hearing both the parties, delivered a very comprehensive judgement covering all aspects of the matter on 27.7.92. This judgement

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is annexed as Annexure-H at Page-26 of the paper

book. It has given the history of the case. It refers to all the correspondence of Mr. Tikku, Mr. Leknath Misra, the then Governor of Nagaland, Mr. R. Vasudevan and others.

It is unfortunate that the learned counsel for Applicant, taking full advantage of the absence of the learned counsel for the Respondents, misrepresented the facts contained in the judgement. At page-6 of the judgement, the learned A.D.J. has observed as follows:

" It would not be out of place to mention here the fact that the alternative accommodation has not been allotted to the Applicant, does not fall strictly within the jurisdiction of this court for that is not within the purview of Section-9 of the Act."

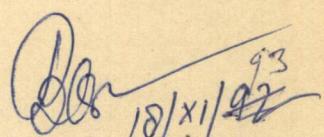
I am sorry to point out that the learned counsel for Applicant misrepresented facts even before this court and said that the appeal was dismissed for lack of jurisdiction. This is not so. The learned A.D.J. has ~~has~~ only observed that the question of alternate allotment or any other allotment for that matter is not within the jurisdiction and that it does not fall within the purview of Section-9 under which he is required to adjudicate on the facts and circumstances of the case. On the 7th page, the following rulings of Delhi High Court have been quoted in support of his contents. This is in the matter of Dr R. K. Talwar Vs U.O.I. and Others AIR 1977.

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I do not find any scope to interfere with the orders passed by the learned Estate Officer on 6-5-1987 and I also do not find any scope for interfering with the judgement of the Appellate Authority delivered on 27-7-92 which is comprehensive, well discussed and well reasoned supported by the rulings of Hon'ble Delhi High Court. The O.A. is dismissed as devoid of any merit or substance. The interim stay granted on 31-7-1992 is vacated. No costs.


18/11/93
(B. K. Singh)
Member (A) 

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