

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

OA No.2130/92

Date of decision; 14-7-93

Shri Harbhajan Singh

vs. Union of India & Ors.

CORAM

Hon'ble Shri C.J. Roy, Member (J)

For the applicant .. Shri S.S.T. Awari, Counsel

For the respondents .. Shri P.P. Khurana, Counsel

JUDGEMENT

This is an application filed under Section 19 of the CAT Act by the applicant aggrieved by the letter dated 7.4.92/28.7.92 declaring the applicant as unauthorised occupant of Govt. accommodation No.A.39/2, Type III, Kabul Line, Delhi Cantt and cancelling the same and also asking him to vacate the said accommodation within 30 days failing which his case would be transferred to the Estate Officers Court for initiating eviction proceedings in accordance with FPE Act 1971 besides charging damage rent.

The applicant claims that he was allotted the said accommodation in December, 1984 from the 'key personnel quota' and that when he was transferred to Bhatinda from Delhi, he was permitted to retain the accommodation vide letter dated 7.2.89. The applicant was shown a letter dated 4.12.90 wherein it was stated that there was a complaint of subletting the govt. accommodation at Delhi and therefore the accommodation was sought to be vacated. The applicant represented

on 27.10.90 denying the allegation inter alia pointing out that he had not been given an opportunity to give the correct facts before he was asked to vacate. The applicant further says that the respondents, after keeping quite for long, issued the impugned letter dated 7.4.92/ 28.7.92. Hence this application.

The respondents have filed their supplementary counter affidavit stating that the allotment was rightly cancelled based on an investigation report on a complaint of subletting of the accommodation by the applicant and that the case of subletting is under trial by the Estate Officer, Delhi Station, and therefore filing of this application is unjust and premature. They aver that the applicant was permitted to retain the accommodation at Delhi due to his posting to a station where modified field service concession is admissible. They say that the Estate Officer afforded five opportunities to the applicant to defend his case and prove his innocence of not sub-letting his accommodation but the applicant has failed to do so. They further say that since the applicant has obtained a stay order by misleading the Hon'ble Tribunal, the hearing is unlikely to take place as the applicant will most probably avoid appearance before the Estate Officer on the pretext that the Hon'ble Tribunal has granted stay. They therefore conclude that the stay order be vacated and the application be dismissed.

The applicant has filed a rejoinder more or less asserting the same points and denying the contention of the respondents.

I have heard Shri S.S.Tiwari, learned counsel for the applicant and Shri P.P.Khurana, learned counsel for the respondents and perused the records.

I find from the reply of the respondents that the investigation was carried out by the petitioner's parent department (Commander Works Engineer, Delhi Cantt) and reported the subletting to Station Hqrs. Delhi Cantt (the allotting authority) vide their letter No.3841/28A/7255/E3f dated 4.12.90 for taking appropriate action. The matter has been dealt by Station Headquarters, Delhi Cantt in accordance with the provisions of Para 16 and 17 of SRD 308/78. Therefore, the contentions of the petitioner that the Respondents had arbitrarily cancelled the allotment order is mischievous, frivolous and against the facts and circumstances of the case.

The main contention of the applicant is that his representation dated 27.12.90 is not disposed of by the respondent and that he was not issued with any show cause notice enabling him to put up the facts. The rest of the allegations made by the applicant are not germane to the present case.

J

In the circumstances, the respondents are directed to dispose of the representation dated 27.12.90 of the applicant, in accordance with the law, within three months from the date of communication of this judgement. The operation of the impugned order dated 7.4.92/28.7.92 is stayed until the disposal of the applicant's representation dated 27.12.90.

With the above observation, the OA is disposed of with no order as to costs.

*for*  
(C.J. ROY)  
Member (J)

14.7.93