

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(30)

O.A.No.500 of 1992

New Delhi, this the ¹⁶ day of Nov., 1993.

HON'BLE MR B.N.DHOUNDIYAL, MEMBER(A)

WHB Patil
S/O Shri FLB Patil
R/O Qr.No.43/12(Type III CVD Line)
Delhi Cantt -10, working as
Upper Division Clerk in the
DET TG No.15(Insp)BME, CVD
C/O Vehicle Depot Workshop BME,
Delhi Cantt. Applicant.

(by Advocate Mr S.S.Tiwari)

vs.

Union of India through

1. General Officer Commanding,
Area Headquarters,
Delhi Cantt.
2. Major SSQ(B)
Station HQ
Delhi Cantt.
3. Estate Officer
Delhi Station
Station Headquarters
Delhi Cantt.-10. Respondents.

(By Advocate Mr H.K.Gangwani).

ORDER

This O.A. has been filed by Shri WHB Patil, challenging the impugned order dated 13th April, 1991, declaring him an unauthorised occupant w.e.f. 27th March, 1991 and the eviction notice dated 8th February, 1992, issued by the Estate Officer, Delhi Station, Delhi Cantt.

2. The main averments made in the O.A. are these. The applicant is working as a U.D.C. under the Ministry of Defence, Government of India and has been residing in government accommodation, namely, 43/12, CVD Line, Delhi Cantt., allotted

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to him in 1990. By the impugned letter dated 13th April, 1991, an allegation was made that the applicant had sub let this accommodation to one Shri Puran Singh. In reply, he had clarified that Shri Puran Singh was his guest and was the son of his close friend. With his reply, documentary evidence regarding his children studying at Delhi Cantt and copies of medical card, gas connection and telegrams received from his native place were also appended. On 3.5.1991, respondent No.2, S.S.O.(B) wrote to his Head of the Department informing that the documentary evidence produced by him was not acceptable. Another representation was submitted on 28.5.1991. On 4.6.1991, respondents re-iterated their earlier stand. The Resident Inspector, who was Incharge of maintaining the guest register, wrote to the S.S.O.(B) on 13.5.1991 and 28.5.1991 to re-consider his decision as the applicant appeared to be a victim of some mis-understanding(Annexures D & F). He has also submitted that in case the S.S.O.(B) felt that a reversal of the decision was beyond him, he should advise whether the individual may seek an interview with the Station Commander. A show-cause notice under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, was received on 26.7.1991, to which again a detailed reply alongwith documents was submitted. A separate appeal was also made against the said charges of sub letting on 5.10.1991. The impugned order dated 8.2.1992 overlooked all the points raised by him and held that he had failed to prove the case of his not sub-letting the government accommodation. Even the judgment given by the Estate Officer does not disclose as to why the

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various documents submitted by him have been rejected. He has prayed that the impugned orders dated 8.2.1992, 6.6.1991 and 13.4.1991 passed by the Estate Officer and the S.S.O.(B) may be set aside and he be allowed to retain the accommodation on payment of normal licence fee. He has also requested that the penal rent charged may be refunded to him.

3. On 28.2.1992, interim order was passed by this Tribunal directing the respondents to maintain status-quo. This order has been extended till date.

4. In the counter filed by the respondents, the main averments are these. Quarter No.43/12 (Type III)CWD Lines, Delhi Cantt was allotted to Sh. WFB Patil, U.D.C. on 27.3.1990. A surprise check was carried out by the Sector Commander, Central Vehicles Depot, Delhi during March/April, 1991 and this quarter was found fully sub-let to one Shri Puran Singh, who is working at Khan Market Delhi. The S.S.O.(B) issued notices to Shri Patil to vacate the accommodation within 60 days as per para 17(3) of SRO 308/78. As this order was not complied with by Shri Patil, the SSO cancelled the orders of allotment of accommodation and referred the matter to the Estate Officer for initiating eviction proceedings under the Public Premises (Eviction of unauthorised Occupants) Act, 1971. During the proceedings, it was established that Shri Patil had in fact sub let the quarter allotted to him, hence the Estate Officer declared him an unauthorised occupant w.e.f.13.6.1991 and directed him to vacate the accommodation by 22.2.1992. Sh. Patil

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did not bother to apply for permission to the Station Commander to keep Shri Puran Singh in his house as required by para 16 of SRO 308/78. The applicant himself admitted before the Estate Officer that Shri Puran Singh stayed in his house from March to May, 1991. They have denied that Major S.K. Anand, Resident Inspector, was in any way entitled to write letters in favour of the applicant. The Estate Officer was given a judgment based on the statement of witnesses and documents produced by both the parties. All the witnesses have deposed before the Estate Officer in the presence of the applicant that the house was found sub let when the Board of Officers had checked it. The Estate Officer did not call Shri Puran Singh since, the three witnesses had deposed before him that Shri Puran Singh had told them that he was living on rent in house No. 43/12 (Type-III) CVD lines. It was open to the applicant to produce Shri Puran Singh as his defence witness.

5. I have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the applicant argued that no show-cause notice was given to him before issuing the eviction notice, that no witnesses were examined, Shri Puran Singh was never brought up for cross-examination, that the categorical assertions by the Resident Inspector that the house was not sub let was ignored and that there were discrepancies on the date of surprise check, as mentioned in the counter filed in another case. He has also presented for perusal of the Court, copies of the Ration Card, which gives his address and shows that he was drawing ration from the locality

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shop during 1991-92. He has also produced copies of the bills from the school, telegram, letters etc. as well as prescriptions issued by the CGHS Dispensary in an attempt to prove that he continued to stay in the quarter. In the copies of the guest register filed by the applicant, it is shown that Shri Puran Singh stayed for ²a brief period⁶ with him a number of times during 1991-92; no period exceeding the permissible limit of 30 days. The register had duly been signed by the Resident Inspector, who was convinced that action has been taken against the applicant due to some mis-understanding. A categorical statement has been made by Major S.K. Anand, Resident Inspector in his letter dated 13.5.1991 that "the individual has neither sub let his quarter to any one nor has he shared the same. I think Shri W.H. Patil is victim of some misunderstanding on the part of rep of sector commander, who supposedly informed you about alleged subletting." He had suggested that in case the reconsideration of the decision was beyond the control of SSQ(B), the individual may be allowed to seek an interview with Station Commander. The learned counsel for the respondent argued that all these factors have been considered by the Estate Officer before passing his order dated 8th February, 1992.

6. A perusal of the order issued by the Estate Officer on 8.2.1992 shows that he has relied on the statement of the applicant that one Shri Puran Singh was working with Private Workshop in Khan Market, New Delhi had stayed with him since March, 1991 to May, 1991. He had not taken any permission either from Station Headquarters, Delhi Cantt or from his Unit to
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keep said Shri Puran Singh. No mention has been made of the entries in the guest register duly verified by the Resident Inspector, that the applicant had not hidden this fact and that during this period Shri Puran Singh had stayed with him on and off for brief spells of less than 30 days for which no permission was required. When it was possible for the authorities to call Shri Puran Singh as witness, it is not clear why they relied on hear-say evidence only. It was for them to prove that the house was in fact sub let by the applicant.

7. It has been held by this Tribunal in case of Bhupender Singh vs. Union of India and others, (1993)23 ATC 113 that in a case of this kind, what is relevant is pre-ponderance of possibilities. However, if the pre-ponderance of possibilities clearly indicates that there is no evidence of the applicant having sub let the premises in question, order of eviction would not be justified. In this case, the fact that Puran Singh was not examined, that the applicant had duly made entries in the guest register, which was verified by the Resident Inspector and that the letters written by the Resident Inspector categorically stating that the applicant was living in this quarter and had not sub let the premises have not been duly taken into account. The respondents have not held that Ration Card and several account books produced by the applicant are not genuine one.

8. In the light of afore-mentioned discussions I allow the application and set aside and quash the impugned orders dated 27th March, 1991 and 8th February, 1992. The respondents are directed to allow the applicant to continue residing in the

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quarter, which was allotted to him, on payment of normal licence fee. The interim order passed on 28.2.1992 is hereby made absolute.

9. There will be no order as to costs.

November 18, 1993.
/sds/

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Member(A).