

23

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.762/92

Date of decision: 20.05.1993.

Shri S.P. Saravat

...Petitioner

Versus

Union of India & Others

...Respondents

Coram: The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri S.S. Tewari, Counsel.

For the respondents

Shri T.K. Sinha, Counsel.

Judgement(Oral)

Heard the learned counsel for both the parties. The petitioner herein is aggrieved by the denial of retention of Government accommodation No.59-A, Arjangarh on local transfer basis and subsequently on tenure basis. He has impugned the respondents letter dated 27.7.1991, rejecting his request for retention of the said accommodation. Briefly the case of the petitioner is that while working under Garrison Engineer (GE for short) (South), Air Force, Palam he was allotted accommodation No.59-A, Arjangarh on 1.7.1987. He is a civilian of the M.E.S. and is stated to be under the category of key personnel. He was transferred from G.E. (South) Air Force, Palam to G.E. Project No.5, Delhi Cantt. He applied for retention of the accommodation, allotted to him when he was working under G.E. (South) Air Force, Palam on the ground that his children were studying in the school around Arjangarh and it would be hardship if he is to vacate the accommodation at that juncture. Considering his representation he was allowed to continue in the said quarter upto the end of the school session viz. 30.4.1990 vide order dated 24.3.1990. The said permission was granted to him by the G.E. (South) Air Force Station, Palam. Thereafter he was directed by the Commanding Officer vide letter dated 4.9.1990

2

to produce documentary evidence to support his request for the retention of the said accommodation by way of non-availability certificate (NAC) from the competent authority. No such documentary evidence was, however, produced by him. He was advised that if he failed to produce the documentary evidence by September 10, 1990 he would render himself liable to action being taken against him. This letter was addressed by the Commanding Officer, Air Force Station, Arjangarh to the petitioner. He was called upon to vacate the said accommodation within one month from the date of the letter dated 31.10.1990, as he had failed to comply with the conditions stipulated earlier by the Commanding Officer. In the meantime, the petitioner was transferred from Delhi to a tenure station viz. Trivendram. The case of the petitioner is that when he was transferred to tenure station he is entitled to retain the accommodation at Delhi till his tenure expires and he is retransferred to the old station or posted elsewhere.

2. By way of relief he has prayed that the impugned order dated 27.7.1991 be set aside and quashed and the respondents directed to allow him to continue in the quarter till the expiry of his tenure.

3. The respondents have taken the stand that the quarter allotted to the petitioner belongs to the G.E. (South) Air Force, Palam which is reserved for the M.E.S. civilians holding key personnel posts. In view of the documents produced by the respondents it is not in dispute that the said quarter is meant for the key personnel of the M.E.S. All that was required was that the petitioner should have asked for alternative

accommodation when he was transferred to G.E. Project, Delhi Cantt duly supported by NAC through proper channel. Had this been done, he would have possibly been allotted alternative accommodation and this problem would not have arisen. The second point argued by the learned counsel for the respondents was that Station Commander who is the allotment authority prescribed under the Defence Service Regulations has not been impleaded and, therefore, the application is bad for non-joinder of proper and necessary parties. Lastly, it was submitted that the petitioner had not exhausted the departmental remedies before rushing to the Tribunal. He neither applied to the Station Commander concerned for considering his case for allotment of alternative accommodation nor did he represent to the Engineer-in-Chief who is head of the Engineer-in-Chief Branch at Army Headquarters and is responsible for the terms and conditions of the service, posting etc. of the civilians personnel of the MES. After the matter was heard in great detail the learned counsel for the respondents fairly conceded that if the petitioner files an application through proper channel addressed to the competent authority duly supported by the necessary documents in regard to his having been posted to tenure station, the respondents will consider his case sympathetically for allotment of alternative accommodation in Delhi. He cannot be, however, allowed to continue in the quarter No.59-A Arjangarh as that quarter is reserved for M.E.S. key personnel. That this is so is supported by the certificate issued by the G.E. (South) annexed at Annexure R-5 to the counter (page 50 of the paperbook). This suggestion was found to be acceptable by the learned counsel for the petitioner.

22

4. In the above facts and circumstances of the case it is not necessary for me to go into the merits of the case. The petitioner is directed to submit a proper application in accordance with the rules supported by the NAC obtained from the new station of posting, in case that is applicable, addressed to the Station Commander, Arjangarh within 4 weeks from the date of communication of this order. On receipt of the said application the Station Commander, Ajangarh shall consider the application sympathetically for allotment of alternative accommodation of the appropriate type to him and pass necessary orders within six weeks thereafter. If the petitioner applies to the respondents explaining the special circumstances of his case to recover rent from him for the period when he was not authorised to stay in the key personnels quarter the respondents shall give sympathetic consideration in view of the financial hardship involved to him and pass necessary orders in that behalf within a period of 8 weeks from the date of receipt of such application. During the period of time allowed to the petitioner to make representation to the Station Commander for allotment of alternative accommodation and to the Station Commander to make such allotment recovery of licence fee etc. shall be regulated under the normal rules.

5. The O.A. is disposed of with the above directions. No costs.

San.


(I.K. RASGOTRA)

MEMBER(A)