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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

O.A. No.1171 of 1993

NEW DELHI this the 26th day of November, 1993

Shri P.T. Thiruvengadam, Member (A)

Shri Bajrang Lal Sharma
R/o T-33, Telegraph Square,
New Delhi-110001.

...Applicant

By Advocate Shri G.K. Aggarwal

Versus

1. Union of India through
Secretary,
Min. of Urban Development,
Nirman Bhavan,
New Delhi-110011.
2. The Director General(Works),
C.P.W.D.,
Nirman Bhavan,
New Delhi-110 011.
3. The Estate Officer,
Government of India,
Nirman Bhavan,
New Delhi-110011.
4. The Estate Officer,
Lady Hardinge Medical College &
Smt. Sucheta Kriplani Hospital,
New Delhi-110001.
5. The Principal,
Lady Hardinge Medical College &
Smt. Sucheta Kriplani Hospital,
New Delhi-110001.

...Repsondents

By Advocate Shri P.P. Khurana

O R D E R

Shri P.T. Thiruvengadam, Member(A)

The applicant was working as Junior Engineer (Electrical) in C.P.W.D. and was temporarily posted in Sucheta Kriplani Hospital(hereinafter referred to as S.K. Hospital). He was allotted Quarter No.T-33, Telegraph Square, New Delhi by the said hospital authorities on 5.5.1986. The applicant states that between January 1990 and 28.6.1992 he worked as Junior Engineer(Electrical) in Dr. Ram Manohar Lohia Division of C.P.W.D. On 30.06.1992 he joined duty as Assistant Engineer (Electrical) at Leh. The applicant continued to retain the quarter allotted to him in 1986 and it is his case that there is no cancellation of the allotment. For the first time on 21.4.1993, a show cause notice of eviction was issued and applicant was asked

to appear before respondent No.4 on 5.5.1993. A notice was sent at the quarter while the applicant was at Leh. The notice was redirected by his father and the applicant sent representation dated 12.5.1993 claiming that persons who have been posted to J&K area can retain their last accommodation. He had also added that he had already requested his department to allot him an alternative accommodation, in view of his old father and infant son, who cannot be expected to stay at Leh. Despite this representation, a demand notice dated 15.5.1993 asking was issued to the applicant/ him to pay market rent at Rs.2,760/- per month for the period beyond 28.08.1992. Separately a notice under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was pasted at the door of the quarter of the applicant at New Delhi that the quarter should be vacated by 28.5.1993 failing which the occupants would be liable to be evicted from the said premises, if need be by the use of such force as may be necessary.

2. This O.A. has been filed with a prayer for quashing the show cause notice dated 21.4.1993, demand notice dated 15.5.1993 and the eviction notice dated 13.5.1993. On 27.5.1993 an interim order was passed staying the vacation(eviction) proceedings and also directing that the market rent should not be insisted. That interim order is still being continued.

3. It is the case of the respondents that the applicant was allotted a quarter from Hospital pool Accommodation and not from General Pool Accommodation by the S.K. Hospital authorities. The allotment letter dated 5.5.1986 contains the following terms and

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conditions amongst others:-

"The allottee shall, on ceasing to be eligible for residential accommodation by this Institution forthwith hand over the vacant possession of the accommodation to the Institution and any overstayal will be deemed to be unauthorised and suitable action taken against her/his for such unauthorised overstayal".

The respondents further pleaded that

4. ¹ The applicant was tranferred from S.K. Hospital by the C.P.W.D. on 28.06.1992. After his tranfer from S.K. Hospital, he was not entitled to retain the accommodation which was allotted to the person posted in S.K. Hospital in his place to maintain the emergency services of the hospital. However, neither the applicant nor the C.P.W.D. informed about his transfer for a long time. On late intimation about his tranfer from C.P.W.D., the applicant was issued a show cause notice on 21.4.93. The demand notice and the eviction notice followed this.

5. The allotment letter of 5.5.1986 clearly spelt out that the allottee on ceasing to be eligible for residential accommodation by the S.K. Hospital had to forthwith hand over the vacant possession of the accommodation and any overstay would be deemed to be unauthorised. The applicant had accepted this condition. The respondents further argued that the applicant cannot claim that he was not aware of the quarter allotted to him as belonging to the Hospital Pool. Even in his representation dated 12.5.1993 to the hospital authorities, he had requested for being allowed to retain the said accommodation till alternative arrangements are made for which he was trying with his department.

6. Regarding the contention that there was no order cancelling the allotment, the learned counsel for the respondents referred to S.R.317-B -11 - Explantion II wherein it has been stated that where a residence is retained under sub-rule(2) [which spells out the permissible period for retention of residence under

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various events], the allotment shall be deemed to be cancelled on the expiry of the admissible concessional period. In the case of the applicant, the two months admissible period had been taken into account and market rent was being charged only after the expiry of the two months period after 29.06.1992, i.e., the date when the applicant was transferred from S.K. Hospital.

7. Having hearing both the counsel, I note that the only issue to be considered is whether the applicant has a claim for continued stay in the accommodation allotted to him in 1986 by S.K. Hospital authorities. I do not see any reason to doubt that the accommodation allotted belongs to the Hospital Pool since the allotment letter itself has been issued by the S.K. Hospital authorities and not by the Director of Estates. At the time of allotment, the applicant had been forewarned that on ceasing to be eligible for residential accommodation by the hospital, the accommodation had to be surrendered. From the representation made by the applicant on 12.05.1993 to the hospital authorities it is clear that the applicant was aware of this position. Hence, I do not see any merit in the O.A.

8. In the circumstances, the O.A. is dismissed and the interim order passed on 27.05.1993 is hereby vacated.

No costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
MEMBER(A)

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