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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1875/93

New Delhi, this the 29th day of April, 1994.

SHRI J.P.SHARMA, MEMBER(J).

Shri Soran Singh,
son of late Kishan Lal,
resident of B-31, CRRI Flats,
Maharani Bagh, New Delhi-110065,

Also

working as Electrician
at C.R.R.I. MBSQ (Maharani Bagh
Staff Quarters),
Maintenance Enquiry,
CRRI Residential Campus,
Maharani Bagh,
New Delhi-110065.

...Applicant

By advocate : Shri K.N.Bahuguna.

Versus

1. Council of Scientific & Industrial Research,
'Anusandhan Bhavan',
Rafi Marg, New Delhi-110001,
through its Joint Secretary (Admn.).

2. Director,
Central Road Research Institute,
P.O. C.R.R.I., Delhi-Mathura Road,
New Delhi-110020.

...Respondents

By advocate : Shri A.K. Sikri.

O R D E R

The applicant has assailed the order dated 26-7-93 whereby the allotment of allotted quarter in the name of the applicant B-31, CRRI Flats, Maharani Bagh, New Delhi, has been cancelled on the ground that the applicant has sublet the quarter to an unauthorised person and by the same O.M., he has been directed to vacate the quarter within 60 days and further to pay penal licence fee @ Rs.1900/- per month. Further, he shall not be entitled for allotment of a quarter for three years. In this application, the applicant has

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prayed for quashing of the aforesaid O.M. and further no licence fee be charged from him.

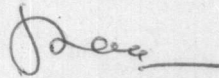
2. The respondents in their reply contested the application and stated that applicant has allowed Mrs. Kamlesh Verma to occupy the whole of the quarter while he was allowed only sharing permission. There was a surprise check committee who visited the quarter on 10-12-92 between 8:30 to 9:30 P.M. and on 27-1-93 between 8:30 to 9:45 P.M. and the applicant was not found in use of the aforesaid allotted quarter. On the basis of the findings of the surprise check committee, the impugned order/OM was passed.

3. I heard the learned counsel for the parties at length and perused the records. The applicant is serving as Electrician and it is stated that he has to perform the night duties and, therefore, was not available at the quarter. The applicant has been a heart patient and earlier he was allotted quarter no. B-33 and subsequently, on his representation, he was allotted the present quarter. The respondents by the order dated 30-5-90 have granted sharing permission to the applicant with their own employee Smt. Kamlesh Verma, U.D.C. She has also filed an affidavit that the applicant was on duty during the surprise check and that this fact was brought to the notice of the surprise check committee. The respondents by the order dated 1-9-93 has also stopped the H.R.A. which was being given to Smt. Kamlesh Verma. In view of the above facts, the respondents should have heard the applicant before passing the impugned order. The applicant has also filed attendance roll for the month of December, 92 to show his duty hours. Any order

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adversely affecting the the employee which is of a penal nature can only be passed after giving him an opportunity of hearing. The principles of natural justice, therefore, have to be observed. The Hon'ble Supreme Court has held in the case of E.P.ROYAPPA Vs. UNION OF INDIA reported in AIR 1975 SC p.555 that even in administrative orders which are of penal nature, an opportunity of hearing be given. The fact finding inquiry cannot be scrutinised by the Tribunal as an appellate authority but before passing any order, the applicant should have been heard on the report of the fact finding committee. In this case, it was all the more necessary because the alleged sub-tenant Mrs. Kamlesh Verma had already been granted a sharing permission with the applicant. The applicant is heart patient and he has filed a number of prescriptions in that regard and also there was a change of quarter on the medical ground.

4. In view of these facts, this application is partly allowed and the impugned O.M. is quashed and the respondents are at liberty to issue a show cause notice to the applicant and thereafter pass an order after hearing the applicant, according to law. Costs on parties.



(J.P.SHARMA)

MEMBER(J)

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