

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2043/93.

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

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

Shri Desh Raj,
son of Shri Dev Dutt,
working as Technician Gr.II,
in the Central Road Research Institute
and resident of Qr.No.B-38, C.R.R.I. Flats,
Maharani Bagh, New Delhi-110065. ...Applicant

By advocate : Shri K.N. Bahuguna.

Versus

1. Council of Scientific & Industrial Research,
'ANUSANDHAN BHAWAN',
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 by which the allotment in the name of the applicant of quarter number B-38 has been cancelled and further he has been directed to vacate the premises within 60 days and also pay the penal licence fee @ Rs.1900/- per month. Further, he will not be entitled for allotment of a quarter for a period of 3 years. The applicant has prayed for quashing of the aforesaid O.M.

2. The respondents in their reply have stated that the applicant has sublet the premises allotted to him to one Shri Tripathi who was found staying with the applicant in the said quarter when a surprise check committee visited the same on 10-12-92 between 8:30 and 10:30 PM and again on 27-1-93 between 8:30 to 9:45 PM. Under the relevant rules for allotment, the applicant cannot share the accommodation without permission from the competent authority. Though the surprise check committee consisted of senior officers, but, at the same time, the raid conducted by the committee should have been according to the rules. The applicant should have been called in the office hours.

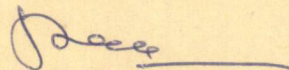
3. The counsel for the applicant referred to the fact that the impugned order has been passed without

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giving him an opportunity of hearing. This fact is denied by the respondents in their reply. The counsel for the respondents also could not show from the record that the applicant has been heard before passing the impugned order. Any order having penal consequences can be passed only after giving an opportunity of hearing to the affected person. The counsel for the respondents could not show any law where the administration can pass an order as has been done in the present case without issuing first a show cause notice.

4. Regarding the occupation of the premises by Shri A.K.Tripathi, the applicant has denied this fact. Shri A.K.Tripathi in his affidavit has admitted that he is sharing the accommodation with the applicant. The applicant has also in his representation admitted that Shri A.K.Tripathi was sharing accommodation with him. The respondents have to consider all these aspects before passing any order having penal consequences. The fact that the applicant was in complete occupation of the quarter has also to be considered on the basis of rival contentions. The respondents in their counter have stated that the applicant was never granted a sharing permission of the quarter with Shri Tripathi, Junior Engineer. The impugned order does not show any application of mind.

5. The application, therefore, is partly allowed and the impugned order/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.SHARM A)

MEMBER(J)

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