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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

O.A. No.886/93

New Delhi, this the 19th day of January, 1994.

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

Shri Dalip Singh Dahiya,  
son of Shri Sarup Singh,  
working as Inspector,  
Labour Department,  
Delhi Administration, Delhi,

resident of House No.64, Bhagwali Colony,  
Near Chappal Factory,  
Dharampura, Najafgarh,  
New Delhi-110043.

...Applicant

(By advocate: Shri S.C.Jain)

VERSUS

Delhi Administration, through  
Secretary, P.W.D.,  
Vikas Bhawan, I.P.Estate,  
New Delhi.

...Respondent

(By advocate: Shri Virender Mehta)

O R D E R (ORAL)

The applicant has been working as Inspector in the Labour Department under Delhi Administration and was allotted flat no.166, Nimri Colony, New Delhi and took possession of the same on 23-7-91. The applicant has also since vacated that flat on 1-1-93. The grievance of the applicant is that a recovery has been levied against him to the tune of Rs.20,930 showing it to be damage rent of the allotted premises. In the application under Section 19, he has prayed for the quashing of the order dated 11-3-93 (Annexure A-1) levying the damages of Rs.20,930. He has also prayed for quashing of the order of cancellation of the allotment of the flat, if any.

2. A notice was issued to the respondent who filed the reply opposing the grant of the reliefs stating

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that the applicant, after allotment of the aforesaid premises, did not occupy the allotted premises, and as such, the allotment in question was cancelled. It is further stated that when survey was conducted, even after 2 months of the allotment, the applicant was not found in physical possession of the quarter and in view of this, the damages have been imposed at the market rate. The applicant appeared before the Estate Officer through his counsel Shri S.C.Jain. The allotment was cancelled by the order dated 28-11-91. The Estate Officer has issued a notice dated 18-6-92 under the provisions of Section 4(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of the applicant from the allotted premises. The Estate Officer finally by the order dated 19-1-93 closed the file without passing any definite order against the applicant. However, in the reply, it is stated that the application be dismissed.

3. I heard the learned counsel for the parties on 17-1-1994. The counsel for the respondent was not having the copy of the rejoinder with him filed by the applicant and he was supplied with the copy along with the annexures to the rejoinder. The annexure to the rejoinder is a document issued by CPWD whereby the possession of the quarter was said to have been taken over by the applicant on 24-7-91. Another annexure with the rejoinder is a statement of deduction of licence fee by the office of the Labour Commissioner where the applicant appears to have been transferred in September, 1991 and the deductions from the salary of the applicant were made every month without any

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interruption till December, 1992. When the arguments were resumed today, the counsel for the respondent could not challenge the genuineness of these documents through he had taken time to verify the authenticity and correctness of these documents from the official records. In view of this fact, these documents have to be given due weight depicting the correct position with regard to the premises allotted to the applicant. The only basis for cancellation of allotment was non-taking over possession by the applicant within the stipulated period under the Allotment Rules. The document annexed with the rejoinder goes to show that the applicant has taken possession of the premises allotted to him on 24-7-91.

4. Under the provisions of SR 317(B) which regulate the terms and conditions of allotment and the cancellation thereafter of the Govt. premises, there is no provision of levying of damages unless and until the applicant has sublet the premises. The procedure to obtain possession is through CPWD and if the possession was not taken, the CPWD would have informed the allotting authority that the applicant has not in pursuance of allotment order taken possession of the premises. The procedure adopted by the Accounts Officer in this case is totally uncalled for and the Estates Officer rightly, after having issued the notice under Section 4(1) (supra), dropped the same.

5. The respondent, therefore, has no case and the applicant has been served with a recovery which is totally uncalled for and untenable under law.

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6. The application, therefore, is allowed. The order of recovery dated 11-3-93 is quashed and set aside. The applicant shall be free to make an application for fresh allotment and the respondent shall consider his case on his old seniority for allotment, if he is in the need of the premises. No costs.

*J. P. Sharma*

( J.P.SHARMA )  
MEMBER(J)

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