

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA 907/93

Date of decision: 13-8-93.

Shri P.K.Garg

Versus Union of India & Ors.

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CORAM:

Hon'ble Shri C.J. Roy, Member (J)

For the applicant .. Shri M.K. Gupta, Counsel

For the respondents .. Shri A.K. Sikri, Counsel

JUDGEMENT

The applicant is aggrieved against the order dated 7th January, 1993 cancelling the allotment of quarter No.C-17, NPL Colony and directing him to vacate the same before 1st May, 1993. The applicant has preferred an appeal against the said order on 23.3.93 but it has not been disposed of so far. Briefly stated, the facts of the case is that the applicant joined the National Physical Laboratory, coming under the control of Council of Scientific and Industrial Research, as Assistant Executive Engineer in October, 1989 and took possession of the above mentioned quarter on 12.2.90 allotted to him vide Memo dated 12.2.90. The applicant was also given the responsibility of security of NPL colony before and after office hours vide circular dated 5.4.1990. The applicant was also made overall incharge of the Construction & Maintenance activities of the Laboratory vide OM dated 27.2.91, alongwith one Mr. K.V.Krishnamurthy, AEE. Vide circular dated 13.10.92, the work relating to security

arrangement of the NPL colony was entrusted to Shri Sukhbir Singh in place of the applicant. The applicant was shocked to receive the impugned order dated 7.1.71 claiming that the same is illegal, unjust and in violation of principles of natural justice. The applicant says that he is not aware of OM dated 16.3.90 that finds a place in the impugned order. Hence this application for quashing of the impugned order.

2. The respondents have filed their counter reply stating that the applicant has suppressed the relevant and material facts and therefore the application is liable to be dismissed. They say that the OM dated 21.11.39 was issued inviting applications of those joined on or before 31.12.68 for allotment of Type-III quarter, whereas the applicant joined duty only on 23.10.39, i.e., less than one month before its issuance and therefore the applicant was not eligible to apply for quarter. However in view of the duties entrusted to the applicant and on considering his request, it was decided to allot the quarter in question as a special case. They further aver that the OM dated 16.3.90 was duly served to the applicant through his peon, whose signature is available on the office copy of the OM. This OM clearly states that "the ad hoc allotment has been made to him (applicant) on the condition that in addition to his duties, Shri Garg will also look after the maintenance and security of the NPL colony. This ad hoc allotment made to Shri Garg will be only for the duration he actually looks after the above additional jobs. In the event of any these functions

being withdrawn from him at any time in the exigency of public interest, the ad hoc allotment made to him will automatically stand cancelled".

3. The respondents conclude that in view of the fact that the applicant is no more discharging the additional duties of maintenance/security of NPL colony and that the allotment was only ad hoc, the allotment has been rightly cancelled and that there is no violation of principles of natural justice. They have thus prayed for the dismissal of the application.

4. The applicant has filed a rejoinder denying the averments made by the respondents and reasserting the contentions as stated in his OA.

5. I have heard Shri M.K.Gupta, learned counsel for the applicant and Shri V.K.Rao, learned proxy counsel for Shri A.K.Sikri & Company, counsel for the respondents and perused the records.

6. I find from the records that the concerned peon, who received the above OM has also acknowledged that he had handed over the OM to the applicant vide Annexure R-7. The circular dated 5.4.90 also states clearly that "Shri P.K.Garg has been given the ad hoc allotment of quarter No.C-17 on the ground that he shall be responsible for the maintenance of NPL colony".

7. I have glanced through the notings of the departmental file leading to the allotment of the said quarter to the applicant and also the cancellation

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thereof. On page 15 of the departmental file in the note portion it has been stated that "the matter has been further discussed by the Union representatives with the Sr. COA in which it has been agreed that the allotment made to Shri P.K.Garg, AEE may be allowed to stay and that he may be given additional charge of looking after the maintenance and security of the NPL Colony after office hours.....However, in the allotment order in respect of Shri Garg, it will be made clear that the allotment being made to him is only an ad hoc allotment and for the duration he actually looks after the maintenance and security of the NPL colony and also that in the event of these functions being withdrawn from him at any time in the exigency of public interest the ad hoc allotment made to him will automatically stand cancelled".

8. On page 35 of the note, which relates to the cancellation of allotment, the section has suggested that "The allotment of quarter to Shri Garg was subject to the condition that allotment of the quarter will be for the period till Shri Garg looks after the work of maintenance and security of NPL Colony. The allotment will stand automatically cancelled if the work is taken back from him. Now Shri Garg does not look after this work. As such, the allotment made to him does not subsist. Shri Garg may be asked to vacate this quarter allotted to him. CSIR Workers Union & SWA have also asked for cancellation of quarter allotted to Shri Garg". On page 38, the Director, NPL, has concluded that "Please proceed with the cancellation of the house

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as per the note put up. He may however be given time till the end of April/May till the school examinations are over".

9. In the correspondence portion of the departmental file, I find a letter at page 237 dated 28.10.92 from the CSIR Workers Union seeking cancellation of the allotment of quarter to Shri Garg as the duties assigned to him have since been withdrawn. The respondents have replied to the Union at page 238 saying that in the event of maintenance & security functions being withdrawn from Shri Garg, the ad hoc allotment made to him will be cancelled. The security arrangement was entrusted to one Shri Sukhbir Singh vide circular dated 13.10.92 directing him to take over the charge of the colony security from Shri Garg. There is also an OM dated 7.1.93 inter alia stating that since Shri Garg is no longer supervising the work related to maintenance and security of the NPL colony, the allotment of accommodation in the NPL colony is cancelled with immediate effect and he was directed to vacate it on or before 1st May, 1993.

10. The contention of the respondents is that although the OM is dated 7.1.93, the applicant did not approach the Tribunal earlier but only when the time given to him was about to expire, he filed this application on 26.4.93 and the orders have been passed by the Tribunal on 4.5.93 restraining the respondents from eviction procedure as an interim measure. In between the applicant filed a representation before the Grievance Committee knowing fully well that the

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Committee has no jurisdiction to look into such matters. However that Committee rejected the representation on the ground that it does not come within its jurisdiction and the applicant was communicated duly vide Annexure R-8.

11. After carefully considering all the facts as well as pros and cons of the case and also the records made available to me, I am ~~not inclined to~~ accept the contention of the applicant that there is any malafide on the part of the respondents in cancelling the allotment when it is clear that it was only an ad hoc allotment considering the nature of duties assigned to the applicant for a specific period. The applicant has no claim whatsoever to retain the said accommodation when he is no more incharge of the security arrangement of the NPL Colony, for which purpose he was allotted the quarter on purely ad hoc basis. Thus the applicant has not made out a proper case for consideration.

12. I therefore direct the respondents to give two months time to the applicant to vacate the quarter allotted to him, from the date of receipt of order by them, after which they can proceed with the eviction procedure against the applicant if he fails to vacate the quarter by the stipulated date.

13. With the above direction, the application is disposed of with no order as to costs.

Subd, 3/8/93
(C. ROY)
Member (A)