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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Dated: 22.12.94

Original Application No: 255 of 1994

1. Mahendra Pal Singh Rathi
Supdt. (B/R), Grade I R/D 34/2,
KPP MES, Agra, Cantt, Agra.
2. S.C.Gupta, S.A. Grade I
R/D 35/2, KLP MES Colony, Agra, Cantt, Agra
3. K.C.Manecha, Supervisor, B/S Grade I
R/D 36/4, KLP MES Colony, Agra Cantt, Agra
4. D.P. Sharma, Supdt. E/M, Gr. II,
R/D 34/4 KLP MES Colony, Agra, Cantt, Agra
5. Sukhbir Singh, Supdt. B/R, Gr. II
R/D 34/I KLP MES Colony, Agra Cantt, Agra
6. G.K.Sharma Supdt. B/R Gr. II
R/D 33/8 KLP MES Colony Agra Cantt, Agra

.... Applicants.

By Advocate Shri D.P.Singh
Shri K.P.Singh

Versus

1. The Union of India, through Secretary,
Ministry of Defence, New Delhi
2. The Commander, Works Engineer,
Agra
3. The Garrison Engineer, (A/F), Kheria,
Agra Cantt, Agra

.... Respondents.

By Advocate Shri C.S.Singh.

O R D E R

Hon'ble Mr. T.L.Verma, Member-J

JK
The subject matter of challenge in this O.A.
is notice dated 23.10.1993 whereby the applicants have

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been asked to vacate the Quarters allotted to them by 20.11.1993 failing which necessary action for recovery of damage rent may be initiated against them.

2. The applicants are serving as Civilian Defence employees of the Military Engineer Service (MES) and were, at the time this application was filed, posted under the Garrison Engineer Air Force Kheria District Agra Cantt. It is stated that at the time the applicants were appointed, the respondents entered into an agreement with them. According to the terms of agreements, the respondents were under an obligation to provide Government accommodation to them on payment of rent chargeable on 10% of their pay or the excess rent which ever is less. The applicants on their transfer to Kheria, were allotted Government accommodation by the Commander Works Engineer Agra. They are residing in the said quarters since then. It is stated that the quarters meant for Civilian employees of the MES had been allotted to the JCOs, therefore, the applicants were allotted the JCOs quarters in lieu thereof. It has further stated that after the allotment of the said JCOs, quarters to the applicants, a number of buildings constructed for Civilian employees of the MES on falling vacant have been allotted to other Civilian employees of the MES who give subsequent to the applicant at Kheria and also to others who are much juniors to the applicants. It is stated that the Commander Works Engineer Agra, has, by the impugned notice, asked the applicants to vacate the married JCOs accommodations allotted to

them without providing alternative and suitable accommodation to them vide Annexures-9 to 14 to compilation No. 2. The applicants filed representation to the Commander Works Engineer against the notices served upon them to vacate the quarters. The representations filed by the applicants were not given due consideration and another order dated 9.12.1993, the Commander Works Engineer Agra has ordered that damage rent be recovered from the applicants w.e.f. 1.12.1993 vide Annexure-7.

The further case of the applicant is that the Garrison Engineer Kheria vide letter dated 29.3.1993, 31.12.93 & 1.2.1994 requested the Commander Works Engineer, Agra not to give effect to the order of recovery of damage and market rent from the applicants and also requested that the applicants be not asked to vacate the possession until alternative accommodation is made available to them. The Commander Works Engineer has however, not acceded to the above request of the Garrison Engineer. Hence, this application for quashing the above orders on the ground that the same has been issued in breach of the agreement and also on the ground that the order is arbitrary, illegal and discriminatory.

3. The respondents have contested the claim of the applicants. It has been stated in the Written Reply filed on behalf of the respondents that the quarters allotted to the applicants were built for military personnel (JCOs). The said quarters were

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allotted to the applicants because at the relevant time, they were lying vacant because the number of the JCOs posted at Kheria at that time was much less than the sanctioned strength of the JCOs and now that the number of JCOs at Kheria has increased and the quarters are required for their use and occupation because the Military Personnels have to be given such accommodations according to the terms and condition of their service. Further, it has been stated that the applicants had given written undertaking to the effect that they will vacate the quarters on one months' notice vide Annexures CA-1 to CA-6. The applicants, it has been stated cannot now be allowed to demand alternative accommodation before vacating the said quarter.

4. The only question that falls for consideration is whether the impugned orders asking the applicants to vacate the quarters and recovery of damage/panel rent are arbitrary.

The learned counsel for the respondents stated the quarters in occupation of the applicants are meant for the JCOs and that the same were allotted to them on their written undertaking that they will vacate the same in one months' notice. Now that the applicants have been asked to vacate the quarters after notice of the stipulated period, they cannot be permitted to say that they will not vacate the quarters. The undertakings obtained from the applicants, it appears are not consistent with the instructions issued by the Army Head Quarters in

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that behalf. The applicant have filed copy of the instructions issued by the Army Head Quarter under letter No. 0582/Q-3 (B)-B-1 dated 4.11.1971, (Annexure RA-1).. According to these instructions, when, once accommodation, then being surplus to Military requirements whether Government, owned/hired or requisitioned, has been allotted by the Station Commander to Civilians, they will not be evicted if subsequently military requirements increase. The instructions further state that any additional accommodation, necessary for entitled, service Personnels, will be hired under the provisions of para 4 of Quarter & Rent. The impugned orders, it would thus, appear, are inconsistent with the above instructions issued by the Army Head Quarter in regard with allotment of quarters. It is also significant to note that the Accounts Department of the Central Command has ^{also} ~~itself~~ objected to the order for recovery of damage/market rent from the applicants. The Accounts Officer, Central Command has, by his letter addressed to the UA BSO Jhansi (Annexure RA-2), ~~has~~ stated in very clear terms that the case of the applicants is purely an administrative matter and it does not fall under the perview of para 14 H of Quarters Rent treating him as unauthorised occupy and in that view of the matter charging of market rent from him does not seem to be in order. He has, therefore, made a request that excess rent charged from the individual be refunded to him. It is also worth mentioning that the Garrison Engineer has informed the CWE Agra by his letter dated 1.2.1994

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(Annexure RA-3) that the applicants who have been allotted JCs married accommodation are agreeable to vacate the same on alternate accommodation being made available to them. From what has been stated above, it is absolutely clear that the respondents are, in terms of their own instructions, under an obligation not to evict the applicants from the accommodation allotted to them or charge damage/ market rent for their failure to vacate the same.

5. In the facts and circumstances of the case, discussed above, this application is allowed and the impugned orders are quashed. The respondents are restrained from evicting the applicants from the accommodation presently in their possession without providing alternative accommodation to them. There will be no order as to costs.

J. M. T. M.
Member-J

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