

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 575 OF 2000.

ALLAHABAD THIS THE 5th DAY OF MARCH 2008.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman.

1. Balbir Singh aged about 56 years, U.D.C son of late Sri Maha Singh, resident of 38/3, Cemetery Lines, Bareilly Cantt., Bareilly.
2. J.P. Tyagi aged about 58 years U.D.C. son of Shri RC Tyagi, resident of 32/2, Cemetery Lines Bareilly Cantt., Bareilly.
3. Ashok Babu aged about 50 years U.D.C resident of 77/1, Clyde Barrack Near B-1 Bazal, Bareilly Cantt., Bareilly.
4. B.P Singh aged about 48 years L.D.C. son of Shri Pooran Singh, resident of Quarter NO. 39/5, Cemetery Lines, Bareilly Cantt., Bareilly.
5. A.K. Datta aged about 48 years, L.D.C., son of Shri S.P.R. Datta resident of 105/3, Cross Road Bareilly Cantt. Bareilly.

.....Applicants

(By Advocates: Shri Ashish Srivastava).

Versus.

1. Union of India M/o Defence through Station Commander, Station Headquarter Bareilly Cantt., Bareilly.
2. Commander Junior Leaders Academic, Bareilly Cantt. Bareilly 243001.

.....Respondents

(By Advocate: Shri Saumitra Singh)



O R D E R

These five applicants have prayed for following relief(s):-


- "(i) That in view of the aforesaid facts and circumstances mentioned above and order dated 22.3.2000 (Annexure A 1), 4.5.2000 (Annexure A-2) and 6.5.2000 (Annexure A-3) may be set aside.
- (ii) That the respondent NO.1 and 2 may be directed not to evict the petitioners from the quarters detailed below in pursuance of the aforesaid order dated 22.3.2000, 4.5.2000 and 6.5.2000:
 - a) Balbir Singh U.D.C Qr. NO. 38/3 Cemetery Lines,
 - b) J.P. Tyagi, UDC Qr. NO. 32/2 Cemetery Lines,
 - c) Ashok Babu UDC Qr. NO. 77/1 Rawlson Lines,
 - d) A.K. Datta LDC Qr. No. 105/3 Cross Road.
 - e) B.P. Singh, LDC Qr. No. 39/5, Cemetery Road.

2. The residential quarters, as mentioned above, meant for members of the Armed Forces, were allotted to respective applicants, prior to 1986-87, as by then no such quarters for defence civilians were available in Cantonment area in Bareilly. The respondents say that as soon as accommodation meant for Defence Civilians became available in 1996, these applicants were offered alternative Quarters but they refused to vacate and shift to those quarters. The Authorities issued letters to these applicants for vacating the same and for paying damage/panel rent etc. The matter remained pending and according to the averments made in para 5 of the reply, they became unauthorized occupants w.e.f. 1.4.2000. Vide letter dated 4.5.2000, the Authority concerned wrote to JLA Bareilly saying that these applicants were allowed to retain the respective accommodations only upto 31.3.2000 but were continuing therein and so were unauthorized occupants, w.e.f. 1.4.2000 and if they do not vacate the same by 10.5.2000, they will be liable to pay damage rent w.e.f. 1.4.2000 besides the eviction under the Act of 1971. Copies of these

communications were also sent to the applicants which they are assailing in this O.A.

3. The sum and substance of the case of the applicants is that allotment of residential quarters to them has not been cancelled in terms of Relevant Rules and moreover no suitable alternative accommodation has been offered to them. They have tried to say, normally an employee who is allotted Govt. accommodation is entitled to retain the same till he ~~is~~^{or} surrenders the same ^{or} till he ceases to be in employment and none of such contingencies has taken place. They have referred to statutory Rules of 1978 and supplementary rules so as to say that in case any emergency arises for getting the accommodation vacated, the applicants are entitled to alternative accommodation of their status and till that is not done, they cannot be asked to vacate the accommodation, nor can be declared unauthorized occupants.

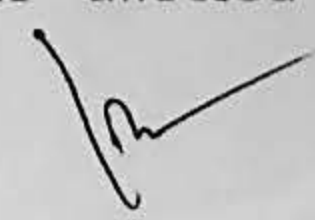
4. In their reply, the respondents have tried to say that these residential quarters meant for personnel of Army, were allotted to defence civilian at a time when these were vacant and when no such quarters were available for defence civilian in Bareilly and when accommodation for defence civilian became available in 1996, these applicants were allotted alternative accommodation but they refused to accept the same and also refused to vacate the quarters in question. They say that the applicants were declared unauthorized occupants w.e.f. 1.4.2000. It has not been said in para 30 that these quarters are now required to be allotted to newly inducted troops from forward areas.



5. In rejoinder, attempt has been made to say that no such need for allotting the quarters in question to member of Armed Forces is there. They say that unless, they are given alternative suitable accommodation, they cannot be evicted. Attempt has also been made to say that respondents are adopting a policy of pick and chose, in allotting quarters meant for defence civilians.

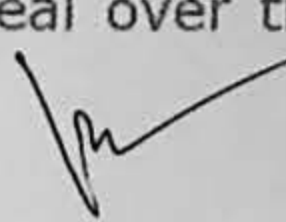
6. I have heard Shri Ashish Srivastava appearing for the applicant and Shri R.C. Shukla holding brief of Shri S. Singh, for the respondents and have perused the entire material on records.

7. Shri Ashish Srivastava does not dispute that the residential quarters in question are primarily meant for members of Armed Forces. In other words, none of the defence civilians can claim allotment as a matter of right as the same are not meant for them. There is sufficient material on record to establish that these quarters were allotted to the applicant at a time when there was no Govt. accommodation for these defence civilians. Allotment, cancellation, payment of rent, damage rent etc. is regulated by a set of Rules namely Allotment of residence (Defence Accommodation for others in Defence Services) Rule 1978, copy of which is Annexure RA-6. Rule 6 deals with allotment of residence. Sub Rule (2) says that Allotting Authority may cancel the existing allotment and allot to him an alternative residence of the same type or in emergent circumstances, an alternative residence of the type next below the type of residence in which the officers at the relevant time is. Letter dated 4.11.1971 (A-16) provides that if such residential accommodation is allotted to defence



civillians, he will not normally be asked to vacate but if exigency of service so demand, he will be shifted to alternative accommodation appropriate to his status. It says that if such accommodation has been allotted on a temporary basis, the civilian may not claim alternative accommodation. In other words, the Authority concerned may get the accommodation vacated from the defence civilians, in case there is a need of it, for the use of members of Armed Forces and in that case suitable alternative accommodation will be made available to such defence civilians. The respondents have come with a clear case that applicants were offered alternative accommodation but they refused to occupy the same. The contention of the applicants appears to be that the accommodation so offered were not as per their entitlement or status. I do not want to enter into that controversy as to whether alternative accommodation was as per the entitlement of the applicants.

8. The respondents have already asked the applicants to vacate the accommodation in question. More than six or seven years have elapsed to the decision of respondents to get the quarters vacated. In all fairness, the applicants should vacate the same, if the respondents are prepared to offer to them alternative accommodation. I think the applicants have no good case for interference of this Tribunal. In matters relating to the residential quarters, meant for the members of the Armed Forces, the Tribunal has to go by the need being felt by the Authority concerned. If Authority says that these are needed for the purpose of Members of Armed Forces, the Courts or Tribunals cannot sit in appeal over the same. The



Tribunal is of the view that both the sides should be practical and reasonable.

9. So this O.A. is finally disposed of with a provision that in case the respondents offer alternative residential accommodation to the applicants, they will accept the same and will vacate the quarters in question, within a period of three months from the date, such alternative accommodations are also allotted to them, ^{failing} ~~failing~~ which the respondents shall be entitled to get them evicted therefrom in accordance with law and also to recover damages/panel rent as per Rules and relevant orders.

1. June 2008
25/3/08

No order as to costs.

Vice-Chairman

Manish/-