

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Original Application No.666 of 2003.

Monday, this the 16th day of August, 2004.

Hon'ble Mr. D.R. Tiwari, A.M.

Sri Vijai Kumar Singh,  
Cleaner,  
S/o Late Sri Suresh Singh,  
r/o 55/G Opium Factory  
Coloney No.2  
Ghazipur, Uttar Pradesh.

..... Applicant.

(By Advocate : Shri S.P. Singh)

Versus

1. Union of India,  
through Secretary,  
Ministry of Finance,  
Government of India,  
New Delhi.
2. General Manager,  
Govt. Opium and  
Alkaloid Factory  
Ghazipur, U.P.
3. Administrative Officer Govt,  
Opium and Alkaloid Factory  
Ghazipur, U.P.
4. Property Officer (Sampatti Adhikari)  
Govt. Opium Factory, Ghazipur, U.P.

..... Respondents.

(By Advocate : Shri Saumitra Singh)

ORDER

By this O.A. filed under Section 19 of A.T. Act, 1985, the applicant has prayed for quashing of the order dated 23.5.2003 and 6.6.2003 (Annexure-A-I and A-2).

*H. S. Singh*

2. The facts of the case in brief are that the applicant was appointed as Cleaner in D.P.M. Factory at Ghazipur. He was allotted quarter No.55-G in Coloney No.2 in October 2002 (Annexure-A-4). The applicant has stated that a sum of Rs.26/- is being deducted as monthly rent for the said quarter Annexure-A-5 and A-5/1. When he was allotted the Quarter he was in the pay-scale of Rs.2550-3050/-. At the relevant time he was drawing salary of Rs.2550/-. Vide letter dated 23.5.2003 he was informed that he was not entitled for the said allotment and his quarter is being cancelled and he was asked to handover the quarter within a period of one week. failing which he will be charged penal rent. Subsequently, on 6.6.2003 he was reminded and was asked to vacate the quarter latest by 13.6.2003. He has not been able to make out a case and there is no specific averment in the O.A. that some other similarly situated persons/employees of the same pay has also been allotted the similar type of house. However, he has pointed out in the rejoinder that once Shri Shashank Shekher who is a cleaner is in occupation of quarter No.53-A, which is of the similar type.

3. Learned counsel for the respondents has, however, on the other hand opposed the contention of the applicant. They have stated that Quarter No.55-G was wrongly allotted to the applicant hence the impugned order for vacation of the quarter was inaccordance with the rules. They have further submitted that the licence fee of Rs.26/- has also been wrongly charged from the applicant. The applicant at the relevant time was in receipt of the pay of Rs.2550/- as pay and he was entitled to a Type -I quarter only. They have also annexed the list of persons who have been in occupation of the said quarter for the last

*Deen*

20 years (Annexure-CA-3). They have further argued that licence fee is charged subject to its revision periodically.

4. On perusal of Para 15 of the Counter it appears that the licence fee of the said quarter was wrongly assessed which is being revised in terms of Government of India's instructions.

5. After considering the rival contention of the counsel for the parties the only question which is for determination is whether the applicant is entitled for allotment of the said quarter. There is no dispute about the fact that the Government is empowered to revise the licence fee periodically. It is also equally undisputed that the entitlement of the allotment of the quarter is in accordance with the pay scale. The pay scale of the applicant at the time of allotment of the quarter was 2550/- i.e. minimum on the basic pay in his pay scale whereas in order to become entitled for allotment of said quarter the basic pay for the persons should be Rs.3050/- per month. On this ground alone he is not entitled for allotment of the said quarter. Secondly, the counsel for the applicant has very strongly relied on the fact that one Shri Shashank Shekher, Cleaner working in the same grade has been allotted similar type of house and he pleads that Shri Shashank Shekher has been allotted the same type of quarter and not denied, he is also entitled similar accommodation in terms of Article 14 of the Constitution. It <sup>may not</sup> ~~can~~ be out of place to mention that <sup>one can</sup> ~~it can~~ not justify one mistake <sup>to</sup> ~~wrongly to~~ <sup>by</sup> ~~other~~ mistake under the circumstances of the case. The

question is not the allotment of the house to Shri Shashank Shekhar but the question for consideration is the allotment of the house to the applicant according to his entitlement in which he ~~falls~~ falls. *D*

7. In view of the facts mentioned above and the discussions made earlier, the OA is devoid of merit and is accordingly dismissed with no order as to costs.

*D*  
Member-A

RKM/