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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 31.07.2001

O.A. No. 360/1999.

Jiv Raj Singh Rajpurohit S/o Shri Prem Singh, by caste Rajpurohit, aged about 44 years, working as Postman at Residency Post Office, Jodhpur, resident of C-3 P&T Colony, Shastri Nagar, Jodhpur.

... APPLICANT

VERSUS

1. Union of India through The Secretary of Postal Department, Dak Bhawan, New Delhi.
2. The Senior Superintendent, Post Office, Jodhpur Division, Jodhpur.

... RESPONDENTS

Mr. Y. K. Sharma, counsel for the Applicant.

Mr. M. A. Siddiqui, Adv. Brief Holder for

Mr. N. M. Lodha, counsel for the respondents.

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Hon'ble Mr. Justice, B. S. Raikote, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Jiv Raj Singh Rajpurohit has prayed for quashing the impugned order dated 02.12.1999 (Annexure A-1).

2. Undisputed facts of the case are that the applicant was allotted qtr. No. C-3 Type-I in the P & T Colony, Residency Road, Jodhpur, vide respondents letter dated 01.07.1997 (Annexure A-5). The respondents department have conducted an enquiry on a complaint that some unauthorised persons are residing in that

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quarter and the allottee (the applicant) is not residing in that quarter. On the basis of this enquiry the allotment of the above mentioned quarter in favour of the applicant has been cancelled and he has been asked to handover the vacant possession of that quarter to Inspector of Post Offices, South Sub-Division, Jodhpur, vide order dated 02.12.1999 (Annexure A-1). The contention of the applicant is that the applicant was never given an opportunity to represent his case when the Inspector conducted the enquiry. It is also contended by the applicant that one Shri Narain Singh ^{to} alleged to be in occupation of quarter no. C-3, P & T Colony, Jodhpur, allotted to the applicant, is living in a separate private accommodation. It has therefore been contended by the applicant that the impugned order dated 02.12.1999 has been issued out of malice and therefore, is liable to be quashed. Hence, this application.



3. In the counter, it has been stated by the respondents that on enquiry it was found that the family of one Shri Narain Singh was residing in that quarter and the applicant was not residing there. Hence the impugned order dated 02.12.1999 has been issued asking the applicant to handover vacant possession of the said quarter to the department. It has therefore been submitted by the respondents that the application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

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5. In 2000(1) ATJ 261, U.O.I. Vs. Sh. Rasila Ram & Ors., Hon'ble the Supreme Court has held that the Central Administrative Tribunal has no jurisdiction to go into the legality of an order passed by the competent authority under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of unauthorised occupant of Govt. quarter.

6. It would thus be clear that Central Administrative Tribunal has no jurisdiction to entertain any application challenging orders issued under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. In the instant case, the respondents order dated 02.12.1999 has been issued by Senior Superintendent of Post Offices, Jodhpur cancelling the allotment of quarter no. C-3 P & T Colony, Jodhpur in favour of the applicant and directing the applicant to vacate the said quarter within a week. But it has not been made clear by the respondents that Senior Superintendent of Post Offices, Jodhpur is the Estate Officer under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for departmental properties in Jodhpur. In the absence of any positive statement from the respondents side that Senior Superintendent of Post Offices, Jodhpur has been declared as the Estate Officer, we cannot infer that Senior Superintendent of Post Offices, Jodhpur is the competent authority. Had it been a case, where the competent authority had issued orders for cancellation of allotment of Government accommodation,

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under Public Premises(Eviction of Unauthorised Occupants) Act, 1971, we would have hesitated in interfering with this case, since as per the law laid down by Hon'ble the Supreme Court, such a case would not be within jurisdiction of the Tribunal. In this view of the matter, we are of the opinion that the enquiry has been conducted behind the back of the applicant and he has not been given any opportunity to present his case. Thus, there has been violation of principles of natural justice. In the light of above discussion, we are firmly of the view that the impugned order dated 02.12.1999 deserves to be interfered with and the same is liable to be set aside. Accordingly, we pass the order as under :-

" The OA is allowed. Impugned order dated 02.12.1999(Annexure A-1) is quashed and set aside. Respondents will, however, be free to proceed with the case after giving due opportunity to the applicant as per principles of natural justice. No costs."

Gopal Singh

(GOPAL SINGH)
Admin. Member

By

(JUSTICE B.S. RAIKOTIE
Vice Chairman

P. / C.

W.A.R 2/8/01

R.W. 6/8/01

Part II and III destroyed
in my presence on 13/5/07
under the supervision of
Section officer () as per
order dated 13/3/2007

WANNA
Section officer (Record)