

I/9

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR.

Original Application No. 215/2001

Date of the order:

30.6.03

Gajanand
S/o Shri Purkha Ram,
R/o Qr. No. KPA 6/6 MES Colony,
Lalgarh
Jattan.
Dist. Sriganganagar. : Applicant.

rep. by Mr. B.Khan : Counsel for the applicant.

-versus-

1. Union of India through Secretary
to Government of India,
Ministry of Defence,
Raksha Bhawan, New Delhi.
2. Major M.K. Jain,
Garrison Engineer (Army) MES,
Lalgarh, Jattan. Distt. Sriganganagar.
3. Adm. Commandant
Military Station Hqrs.
Lalgarh Cantt.
Distt. Sriganganagar. : Respondents.

rep. by Mr. S.K. Vyas : Counsel for the respondents.

CORAM: The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman.
The Hon'ble Mr. A.P. Nagrath, Administrative Member.



ORDER

Per Mr. Justice G.L.Gupta:

The applicant is a Mason in the office of the respondent No. 2. He was allotted type 'A' quarater No.KPA/6/6 in MES Colony, Lalgarh in the year 1988, and he has been residing in the same since then. The Garrison Engineer vide order dated 23.7.2001, has directed him to vacate the quarter within 15 days else disciplinary proceedings would be initiated against him.

2. The grievance of the applicant is that the Garrison Engineer has issued order Annex. A.1 without issuing show-cause notice to him and without declaring him as unauthorised occupant. It is prayed that the order of the Garrison Engineer Annex. A.1 be quashed.

3. In the counter, the respondents' case is that that the applicant is in the habit of vitiating the atmosphere in the MES Colony due to frequent quarrels with his neighbours and therefore the impugned order has been issued. It is stated that a complaint was received on 23.7.2001 that the applicant and one Hassan Din quarrelled with each other and therefore notice was issued to both of them to vacate their quarters. Shri Hassan Din has already vacated the quarter.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. The contention of Mr. Khan, was that the impugned

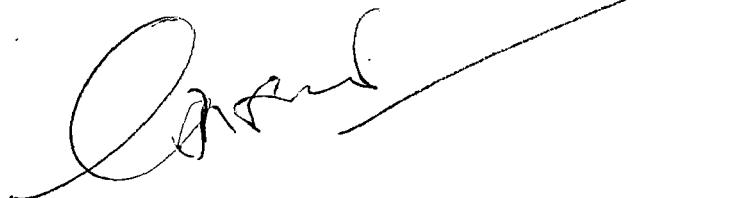


order was issued without any notice to show cause, to the applicant and therefore the principles of natural justice have been violated. His further contention was that since the quarrel had taken place between the applicant and Shri Hassan Din, and the said Hassan Din has already vacated the quarter, there is no necessity to get the quarter of the applicant vacated.

6. On the other hand, Mr. Vyas contended that due to quarrelsome nature of the applicant the Garrison Engineer has taken a decision to get the accommodation vacated and the Court should not interfere in the matter.

7. We have carefully considered the rival contentions. It is now admitted position that before issuing the impugned order Annex. A.1, the Garrison Engineer had not issued any show cause notice to the applicant for the proposed action. Admittedly, the applicant had been allotted the quarter as per his right on his turn. By issuing the impugned order Annex. A.1 the Garrison Engineer has infringed the right of the applicant to live in the quarter which he had got by allotment. It is settled legal position that before any adverse action is taken against an individual, opportunity to show cause, has to be given and if the adverse action is taken without issuing the show cause notice it amounts to violation of principles of natural justice. Therefore, the impugned order in this case can not be allowed to stand.

8. We are not required to comment on this aspect of

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the matter as to who was at fault in the incident dated 22.7.2001. We also do not think it necessary to express any opinion whether on the ground that the conduct of the applicant and his family members is such which may be prejudicial to the maintenance of the harmonious relation with his neighbours, the order for vacating the quarter could be passed. It is for the competent authority to consider the matter after issuing show cause notice to the applicant.

9. In our considered opinion, the impugned order is not sustainable and is liable to be quashed.

10. Consequently, the impugned order Annex. Al is hereby quashed. O.A is allowed. No order as to costs.

unjsv
(A.P.Nagrath)
Administrative Member

G.L.Gupta
(G.L.Gupta)
Vice Chairman.

jsv.