

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. O.A. 259 of 1997

Present : Hon'ble Mr.D.Purkayastha, Judicial Member.

J.K. Mukherjee working as Executive Engineer, Calcutta Central Division VI, Central Public Works Department, Nizam Palace, Calcutta-20, at present residing at Quarter No.11A, Dover Lane Extension, Calcutta-26.

.... Applicant  
Vs.

1. Union of India through the Secretary, Ministry of Urban Development, Govt. of India, Nirman Bhawan, New Delhi-11.
2. Director of Estates, Government of India, having office at Nirman Bhawan, New Delhi-110 011.
3. The Estate Manager, Govt. of India, Office of the Estate Manager, 5, Esplanade East, Calcutta-700 069.

.... Respondents

For the applicant : Mr.Samir Ghosh, counsel.

For the respondents: Mr.S.N.Das, counsel.

Heard on : 11.3.1998

Order on : 11.3.1998

O R D E R

Heard the ld.counsel for both the parties. On perusal of the record, I am satisfied that the matter can be disposed of at the admission stage itself.

2. I have perused the cancellation order of allotment communicated to the applicant vide memorandum dated 28th February, 1997 (annexure 'F' to the application). Ld.counsel, Mr.S.N.Das, appearing on behalf of the respondents, submits that he has

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not received any instructions from the department though he has received the brief. It is found that the quarters in question was allotted to the applicant by a letter dated 10.1.1997 with a direction to take possession of the quarters within 20.1.1997. But the applicant took over possession of the said accommodation on 31.1.1997 without any authority as such. Thereby the allotment order was cancelled by order dated 28.2.1997. It is found from the record that the applicant by letter dated 17.1.1997, to the Executive Engineer, Calcutta Central Division No. IV, CPWD, Calcutta, intimated him that he could not take possession of the said quarters being 11A, Dover Lane Extension (Type IV), in the quarters since some repairing work would be required before taking over its possession. From another letter of the department addressed to the Estate Manager (annexure 'E' to the application), it was intimated that the quarters was not fit for possession till 27.1.1997. Since the applicant already intimated the department concerned that he was unable to take possession of the quarters on 20.1.1997 for the reasons disclosed therein and prayed for extension of the validity of the authority slip, it can be said that the order of cancellation on the said facts is arbitrary and illegal and devoid of consideration of the representation of the applicant dated 17.1.1997 (annexure 'D' to the application) and the letter at annexure 'E' to the application.

3. In view of the aforesaid circumstances, I am satisfied that the impugned order of cancellation dated 28th February, 1997 (annexure 'F' to the application), is not tenable in law as it suffers from arbitrariness and thereby the order of cancellation is set aside.

4. Accordingly, the application is allowed, awarding no costs.

  
11/2/1998  
(D. Purkayastha)  
Judicial Member