

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1372/94

Transfer Application No.

Date of Decision

5/10/95

Shri Shantilal Nathulal

Petitioner/s

Shri K.S.Kalappura

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Sh.Ravi Shetty for Sh.R.K.Shetty for 1 to 6

Advocate for
the Respondents

Shri V.S.Masurkar for 7.

CORAM :

Hon'ble Shri. P.P.Srivastava, Member (A)

Hon'ble Shri.

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(P.P.SRIVASTAVA)

MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

(5)

DA.NO. 1372/94

Shri Shantilal Nathulal

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri K.S.Kalappura
Advocate
for the Applicant

Shri Ravi Shetty
for Shri R.K.Shetty
Advocate
for the Respondents No. 1 to 6.

Shri V.S.Masurkar
Advocate
for the Respondent No.7.

JUDGEMENT

Dated: 5/10/95

(PER: P.P.Srivastava, Member (A))

The applicant is working as Peon with Garrison Engineer, Karanja under the Ministry of Defence. The applicant's father was also working with Military Engineering Services and on his expiry in July, 1983 the applicant got the present job on compassionate grounds in January, 1984. The applicant was living with his father in the quarter allotted to his father Room No. 62/63, 40-A Chawl, Pilot Bunder, Colaba, Bombay. This accommodation was transferred in the name of the applicant after the death of his father and the employment of the applicant on compassionate ground on 25.5.1985.

2. The applicant has submitted that the respondents served a notice on the applicant to vacate Room No. 62 by 5th November, 1994 stating that Room No. 62 and 63 were allotted erroneously and therefore allotment order



for one of the room was cancelled. It was also mentioned that if the Room is not vacated by 5th November, 1994, the applicant will be placed on damage rate of rent and also eviction proceedings initiated. On this the applicant made a representation against the cancellation order, however, according to him, he has not received any reply. The applicant further stated that on 14.11.1994 some army personnel came to the residence of the applicant and asked him to vacate Room No. 63 instead of Room No. 62. The applicant and his family were forced to evict the Room No. 63 by the army personnel. The applicant has approached the Tribunal for restoring Room No. 63 to the applicant which has been forcibly taken away by the authorities without following the procedure in the matter.

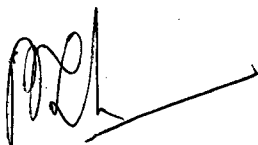
3. The respondents on the other hand have submitted that two quarters No. 62 and 63 were wrongly allotted to the applicant and when this fact came to the knowledge of the respondents, the allotment of one of the quarter No. 62 was cancelled by the respondents and the applicant was informed that he should vacate the quarter by 5th November, 1994. However, according to the respondents, the applicant vacated Room No. 63 and the concerned authorities took charge of the accommodation even though the cancellation orders were for Room No. 62. Consequent upon this vacation the Station Headquarters had amended the allotment order for Room No. 62 only and the same was forwarded to the applicant and all others concerned. The respondents submitted that the applicant's belongings were never touched by any of the army personnel sent for the purpose.



4. The main ground taken by the counsel for the applicant is that the applicant could not have been asked to vacate one of the room without following the procedure under P.P.Act and giving notice under the same Act. The counsel for the applicant has also cited judgements which envisaged that no eviction can be ordered unless an action is taken under P.P.Act.

5. On the other hand, counsel for the respondents Mr. Shetty and Mr. Masurkar have argued that this is not a case of eviction but cancelling allotment of one of the quarters as two quarters were erroneously allotted to the applicant. The counsel for the respondents have further argued that the applicant's father was given two quarters long time back. Quarter to the applicant on compassionate ground according to his status/and since he is a Peon, he is entitled to only one quarter and when the mistake was detected a **corrective** action was taken for cancelling the order for one of the room, i.e. 63. But the applicant wanted to retain Room No. 62 and vacated Room No. 63 and therefore the occasion to start eviction proceedings against the applicant to vacate Room No. 62 did not arise. The authorities concerned have already regularised Quarter No. 62 in the name of the applicant after he vacated Quarter No. 63.

6. There cannot be any dispute that on the question that of law/the eviction proceedings are required to be taken for evicting a person from the accommodation which has been allotted to him. However, in this case, I am of the view that the applicant had not been asked to vacate the



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: 4 :

quarter as a whole but since two quarters were
by mistake,
allotted to him/ the allotment order was cancelled
for one of the quarters. The applicant has
already vacated the quarter, i.e. No. 63 and he is
having quarter No. 62 in his possession, I am of the
opinion that this is not a fit case wherein the
Tribunal should intervene. Since the applicant is
entitled only for one quarter and he is having one
quarter, I do not see any merit in the case of the
applicant for restoring the quarter from which he
has been evicted by the respondents.

7. In the result, I see no merit in the OA. and
the same is dismissed.



(P.P. SRIVASTAVA)
MEMBER (A)

mrj.