

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 256/97

Date of Decision: 12.11.97

Shri D.T. Swain

Applicant.

Shri Suresh Kumar

Advocate for  
Applicant.

Versus

Union of India and others

Respondent(s)

Shri V.S. Masurlar


Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. B.S. Hegde, Member (J)

Hon'ble Shri.

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

  
(B.S. Hegde)  
Member (J)

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH 'GULESTAN' BUILDING NO: 6  
PRESCOT ROAD, MUMBAI:1  
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Original Application No. 256/97

Wednesday the 12th day of November 1997.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

D.T. Swain  
R/o Qtr. 124/4534  
Type I, Sector VII  
S.M.Plot, Mumbai.

... Applicant.

By Advocate Shri Suresh Kumar.

V/s.

Union of India through  
Director of Estate,  
Nirman Bhawan,  
4th Floor, New Delhi.

The Estate Manager,  
Govt. of India Pratishtha Bhavan  
101 M.K. Road, Mumbai.

The Asstt. Personnel Manager  
The Admiral Supdt.  
C.No. 31, Mast Dept.  
Naval Dockyard Mumbai.

... Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

¶ Per Shri B.S. Hegde, Member (J) ¶

Heard counsel for the parties.

2. In this O.A. the applicant has challenged the impugned order dated Nil. directing the applicant to vacate the premises 15 days from the issue of the order. The contention of the learned counsel for the applicant is that the applicant has been allotted the quarter on 20.12.1993. Surprise check was held in the month of January 1994. During the inspection the Ration Card, CGHS Card etc. could

not be filed before the inspection as he had got the allotment one month back. Even on the perusal of the inspection report except stating that the quarter in question is partially subletted. In arriving this conclusion alongwith applicant's wife name another lady's name is also shown. Even neighbour's evidence was not taken in support of this decision. The contention of the respondents is that by virtue of surprise check the quarter is partially subletted. A show cause notice was issued and an opportunity was given to the applicant. The applicant had appeared before the Estate Officer on 4.7.94. The allotment was cancelled by the Estate Officer on 25.11.94. Subsequently the applicant received the notice under section 4 on 13.2.95. The applicant on oral hearing stated that his wife was very much in the house at the time of surprise check. Despite the same after a lapse of 1½ years the respondents have issued the notice under section 5 in the year 1997, without compliance of any due process of law. The contents of the inspection report was not brought to the notice of the applicant till he filed the application in the Court, therefore, he was unaware of the inspection report and he was under the impression that since he was appeared before the Estate Officer and explained the matter, the Estate Officer must have convinced of the matter. Nevertheless, the Estate officer has passed the Eviction order which is contrary to the facts of this case.


3. The learned counsel for the applicant relied upon various decisions. In the case of Bhupender Singh V/s. Union of India and others (1993) 23 ATC 113 The Principal Bench held that It must be established that the allottee was residing at a place other than the accommodation allotted to him. Statements of the neighbouring allottees also considered relevant. Applicant sought to be declared ineligible for continuation in government accommodation on the basis of information said to have been given to an investigating Officer by a lady that the accommodation was sublet to her whereas the applicant's ration card and savings bank account pass book indicating his residence at the allotted accommodation. Presence of the lady also explained by the applicant. Order regarding applicant's further ineligibility therefore, held, being passed by department authorities on insufficient evidence. Further held, temporary stay of a couple with an allottee is not objectionable for allotment. Ultimately the O.A. was allowed and the Tribunal set aside the order of eviction.

4. Relying upon the decision the Bombay Bench in the case of D.K. Mate V/s. Estate Manager in O.A. 1338/95 held that the ratio laid down in the case of Bhupender Singh V/s. Union of India and Ors. is squarely applies to the facts of this case. Accordingly the O.A. was allowed. Similar is the case in Ram Das V/s. Union of India Anr. OA 906/95

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decided on 5.9.96. Therefore, the learned counsel for the applicant submits that the ratio in Bhupender Singh's case is squarely applies to the present case as at the relevant time the applicant could not produce the documents such as ration card and CGHS Card as he has been allotted the quarter on 20.12.93 and the surprise check was held in the month of January 1994.

5. In the circumstances I do not find any substance in the allegation made by the respondents department, since the facts of this case is squarely within the purview of the Bhupender Singh's case, the same is binding on the Tribunal. Accordingly the O.A. is allowed. The impugned eviction order is hereby quashed and set aside. No order as to costs.

  
(B.S. Hegde)  
Member (J)

NS