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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

D.A.NO.913/95

Between:

Date of Order: 10.4.96.

A.Kucheludu

...Applicant.

And

1. The Director, SHAR Centre,
Dept. of Space, ISRO,
Govt. of India,
Sriharikota,
Nellore District.
2. Estate Manager, Head P & GA(S) Division,
SHAR Centre, ISRO, Sriharikota,
Nellore.
3. Administrative Officer I,
Estate Management and Welfare,
Shar Centre, Sriharikota,
Nellore District.

...Respondents.

Counsel for the Applicant : Mr.K.K.Chakravarthy
Counsel for the Respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

contd...

O.A. 913/95.

Dt. of Decision : 10-04-96.

ORDER

X As per Hon'ble Shri R. Rangarajan, Member (Admn.) X

The applicant in this OA while working as Heavy Vehicle Driver in the respondents organisation was issued with the impugned order No.SCF/P7GA/EM&W/15/95 dated 3-5-95 (Annexure A-2 at page-12) cancelling the quarter No.B4-1 allotted and occupied by him at Pulicat Nagar, Sullurpet for using the said quarters for improper and unlawful activities. He submitted a representation to R-1 dated 21-06-95 (Annexure A-4 at page 14) for cancelling the impugned order and permitting him to retain the quarter. His request for retention was rejected by the order No.SCF;PGA:EM&W:15/95 dated 17-07-95 (Annexure A-6 at page 17). In the same letter it was informed to him that in case he fails to vacate the quarters within 7 days from the date of receipt of that memorandum, penal rent at the rate of Rs. 560/- per month will be levied from him.

2. This OA is filed impugning the order No.SCF/P7GA/15/95, dated 3-5-95 passed by R-2 by holding it as illegal, arbitrary and for ignoring the reply given to his representation dt. 17.07.95 (Annexure A-6) and for a consequential direction to permit him to retain the said quarters.

3. In para 5(2) of the reply it is submitted by the respondents that the resident of Pulicat Nagar Colony, Sullurpet, where the applicant is staying, made complaints that the applicant



in this OA in collusion with one Shri Banshi Naik, another driver, also a resident of the same colony is engaged in illegal selling of liquor in the colony using the Government accommodation. It is further stated in the reply that the applicant was orally warned by the Estate Manager to desist from such unlawful activities. It is also averred that the local police officials raided the house of the applicant and his accomplice Shri Banshi Naik on their own information or complaints received from other sources for possession and selling of liquor from their quarters in violation of State Prohibition Act. In view of the above complaints and violation of the prohibition Act the Estate Manager took a decision to curb such activities and in good faith and in the larger interest of the community judicially exercised his power bestowed on him under the rules by cancelling the allotment of the quarter allotted to the applicant and his companion Shri Banshi Naik for indulging the illegal activities. It is further stated that Shri Banshi Naik, accomplice to the applicant, in obedience to the orders of the Estate Manager had vacated the quarter and the applicant is still occupying the quarter allotted to him.

4. Thus from the above averments it is clear that the cancellation of the quarters allotted to the applicant is to curb the illegal activities and to redress the complaint submitted by inmate of the Pulicat Nagar Colony. The applicant has not filed any rejoinder. The learned counsel for the applicant submits that he could not file a rejoinder as he has not received any response

on his client when he wrote to him for filing the rejoinder to the reply. But the learned counsel for the applicant states that in para 6(f) of the OA he has refuted the above allegations. A reading of this para indicates that there is no refutation by the applicant in regard to the filing of the FIR or complaint reported to have been submitted by the inmates of the Pulicat Nagar Colony. Thus the applicant has not submitted any material fact to say that the allegations made by the respondents is false on the basis of any records or other materials. Though the learned counsel for the applicant denies in regard to any FIR filed in connection with the selling of illicit liquor without any recorded material, he admits that there is one FIR CC 53/94 before the Munsif Magistrate, Sullurpet in regard to the theft case against the applicant and it is pending. The very fact that a case of theft is filed in the Munsif Court, itself proves that the applicant is not a desirable element to be kept in a residential Government colony. There is a reasonable suspicion that the applicant could have engaged himself in other illegal activities also such as illicit liquor trading etc. In the absence of any rejoinder to the allegations made by the respondents in the reply it has to be held that the applicant has no answer to the allegations and hence he failed to file the rejoinder.

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-5-

5. I have called for the rules in regard to the allotment of residential quarters under the department of Space (DOS). The learned standing counsel produced the 1975 rules captioned as "Consequences of breach of rules and conditions".

6. "As per this rule the Estate Manager has got sufficient powers to cancel the residential quarters allotted to an employee if the residence or any portion thereof is used for any purpose other than that for which it is meant or the allottee uses the residence or premiss for any purpose which the Estate Manager considers to be improper".

7. From the above rule it is clear that the Estate Manager has got powers to cancel the allotment of quarters if he has got any reasons to believe that the allotted quarters is used for illegal or unlawful activities. The rule does not stipulate that the estate manager should ensure by proper enquiry or otherwise to come to the conclusion that the quarter is used for illegal activities. It is sufficient as per rule if he satisfies himself in regard to the use of quarter allotted to the employees that it is not used for any other purpose other than for which it is meant. Though the learned counsel for the applicant submits that it is the responsibility of the estate manager to prove the allegations before cancelling the allotment of quarter, the rule does not provide for such proof before cancelling the allotment of the quarter. In view of the clear instructions in the rule, I see no reason for the estate manager to prove his allegations before cancellation of the allotted quarter.

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62

-6-

8. Further the residential quarter has to be used for the purpose for which it is meant. There are ladies and children in the colony. If the allottees used the quarter for any illegal purpose it will create depressing conditions in the colony. Elements which mis-uses of the quarter has to be dealt with iron hand. No unlawful activities can be entertained in the residential colony. If the administrative authorities reasonably come to the conclusion that the allottee is not a desirable element to be housed in the colony due to his illegal activities, the authorities can take action to evict the person by cancelling the allotment, 1975 rules as stated earlier is not against this course of action.

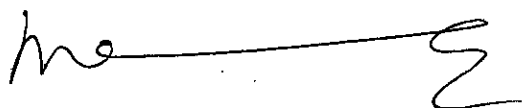
9. In view of the above, I see no unreasonableness on the part of the estate manager when he cancelled the allotment of the quarter allotted to the applicant to curb irregular and unlawful activities. His accomplice Shri Bansi Naik knowing that his case is not strong, vacated the quarter gracefully and without a murmur. But the applicant for ^{some} un-known reason tries to cling on to the quarter. Probably he is under the impression that if he approaches the Court or Tribunal his case will be upheld. No Court or Tribunal can tolerate such indisciplined action of the applicant. This Tribunal has already shown grace by suspending the impugned order till the OA is vacated. This stay cannot go on indefinitely but has to be vacated at the earliest.

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10. In view of the fact that he has got a large family and his wife is also a patient I take a lenient view by directing the respondents to allot him a fresh quarter on priority in future if he is cleared of the charges. As the applicant has to make some arrangements for finding alternative accommodation eviction proceedings, if any ~~is~~ contemplated by the respondents, in case the applicant fails to vacate the quarter on his own, such proceedings may be initiated after a period of two months from the date of receipt of a copy of this order.


11. In the result, the OA is dismissed subject to the condition that the applicant, if exonerated of the charges by the police or the departmental authorities has to be allotted a quarter in future after his ~~ex~~oneration on priority basis. If any eviction proceedings is contemplated if the applicant does not vacate the quarter on his own, such proceedings should be initiated only after a lapse of two months from the date of receipt of a copy of this order.

12. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member(Admn.)

Dated : The 10th April 1996.
(Dictated in Open Court)


Dy. Registrar(J)

Control

O.A.NO.913/96

Copy to:

1. The Director, SHAR Centre,
Dept. of Space, ISRO,
Govt. of India,
Sriharikota,
Nellore District.
2. Estate Manager, Head P & GA (S), Division,
SHAR Centre, ISRO, Sriharikota,
Nellore.
3. Administrative Officer,
Estate Management & Welfare,
SHAR Centre, Sriharikota,
Nellore District.
4. One copy to Mr.K.K.Chakravarthy, Advocate,
CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One duplicate copy.

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16/5/96
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

DATED: 10.4.96

ORDER/JUDGEMENT

M.A.NO/R.A/C.A.No.

IN

O.A.NO. 913/95

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH

- 9 MAY 1996

हैदराबाद ब्याचपीठ
HYDERABAD BENCH