

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

OA No.403/98

Date of order: 19.5.99

Vidhyadhar Sharma S/o Shri Shri Narain Sharma, R/o Qtr.
No. I-27, Type-I, P&T Colony, Jaipur, presently posted as
Postman at Shastri Nagar, HPO, Jaipur.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of Postal Communications, Govt. of India, Dar-Tar Bhawan, New Delhi.
2. The Chief Post Master General, Postal Circle, Rajasthan C-Scheme, Jaipur.
3. The Sr. Supdt. of Post Offices, Jaipur City Division, Jaipur-6

.. Respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

Mr. Y.C.Joshi, counsel for the applicant.

Mr. Asgar Khan, Advocate, Briefholder for Mr. M.Rafiq,
counsel for the respondents

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

Applicant, Vidhyadhar Sharma, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

- "1. That the Hon'ble Tribunal be pleased to allow this O.A. awarding exemplary cost of Rs. 5000/- including reserve cost.
2. That the Hon'ble Tribunal be pleased to quash Impugned Order Annexure A-2 and A-4 and also the Ex-Parte enquiry conducted by Asstt. Supdt. of Post Offices, whereby the applicants duly allotted quarter No. I-27, Type-I, has been cancelled, be quashed and the humble applicant be declared the allottee of this quarter and be allowed to continue his possession undisturbed.
3. That the respondents be directed to pay to the applicant his salary for the last six months and also pay the declared bonus to the applicant immediately.

Gopal Singh

7

4. That other appropriate writ, order or direction deemed equitable by the Tribunal may be passed and issued in favour of the applicant."

2. As an interim relief, the applicant has prayed for a direction to the respondents not to cancel the allotment and not to disturb the peaceful possession of the applicant of Q.No.I-27, Type-I till disposal of the OA and the operation of Ann.A4 be stayed. The respondents vide letter dated 29.9.98 at Ann.A2 had called for the explanation of the applicant in regard to complaints made by the residents of P&T Colony and vide their letter dated 17.11.98 at Ann.A4 the allotment of residential quarter No.I-27, Type-I allotted to the applicant was cancelled. Feeling aggrieved by the action of the respondents, the applicant has approached this Tribunal through the present OA.

3. Notices were issued to the respondents and they have filed their reply.

4. Undisputed facts of the case are that the applicant while working as a Postman in Shastri Nagar, Head Post Office, Jaipur was allotted Q.No. I-27 by the respondents and the same was occupied by the applicant on 28.8.92. On receipt of a joint complaint dated 8.9.98 from the neighbours of the applicant regarding noisy atmosphere created by the crowd of persons coming to Quarter No. I-27 occupied by the applicant causing immense inconvenience and disturbance to the neighbouring families, the Sr. Superintendent of Post Offices, Jaipur City Division vide his letter dated 17.9.98 instructed the Assistant Superintendent of Post Offices (West), Sub Division, Jaipur-6 to investigate into the matter and submit his report. The Assistant Superintendent of Post Offices (West) accordingly investigated into the matter and submitted his report vide letter dated 25.9.98. The matter was also got investigated by the Circle Office and the report thereof was submitted vide letter dated 12.10.98. By these reports, it was established that a large number of unwanted outsiders visit Q.No.I-27 specially during odd hours at night and thus disturbs the residents and studies of the children of the neighbouring families. It was also pointed out in the report that these frequent visits of unwanted outsiders was fraught with the risk for safety and security of the

Copy attached

individuals and public property of the colony. The outsiders visiting Q.No. I-27 were also reported to be using the common toilet of that quarter, thus causing inconvenience to the lady members of the neighbouring families. On the basis of the aforesaid two reports, the applicant was called upon to submit his explanation vide respondents' letter dated 29.9.98 but the applicant failed to submit the explanation despite reminder dated 16.10.98. In order to improve the atmosphere of the colony, the allotment of Q.No.I-27 to the applicant was cancelled vide memo dated 17.11.98 (Ann.A4).

5. The applicant has contested the action taken by the respondents in cancelling the allotment of Q.No.I-27 on the ground that the inquiry conducted by the respondents was ex-parte inquiry inasmuch as the applicant was never questioned in this regard. Here, it is mentioned that the inquiry conducted by the respondents was not an inquiry under CCS(CCA) Rules. The respondents got the complaint by the residents of the P&T Colony investigated so as to find the veracity of the complaint. On receiving the reports by the inquiry officer, the applicant was issued a show-cause notice in this regard. Thus the applicant was given adequate opportunity to present his position in regard to misuse of the Government residential accommodation. The stand taken by the applicant that the inquiry conducted by the respondents was ex-parte inquiry, therefore, is not tenable. The applicant despite reminder from the respondents did not submit any representation to the show-cause notice and the respondents were within their rights to cancel the allotment of the said quarter. We thus find that the respondents' letter at Ann.A2 and A4 do not require any interference by the Tribunal.

6. In regard to payment of salary for the last six months, it is seen from the records that the applicant was granted Extra Ordinary Leave on medical certificate for the period from 4.4.98 to 16.10.98 by the respondents vide their letter dated 5.11.98 at Ann.R5. It has been admitted by the learned counsel for the applicant that the applicant is bed-ridden and has not been attending his duties for the last one year. In the circumstances, we do not find any justification in the prayer of the applicant for payment of salary for the last six months

(Signature)

since the applicant does not have any leave to his account and any leave would be sanctioned to him beyond 16.10.98 would also be Extra Ordinary Leave without pay. As such the applicant is not entitled to receive any salary for the period for which he has not performed any duty.

7. We, therefore, do not find any merit in this applicant and the same deserves to be dismissed and is hereby dismissed with no order as to costs.

Gopal Singh

(GOPAL SINGH)

Adm. Member

Gopal Krishna

(GOPAL KRISHNA)

Vice Chairman