

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JHAPUR BENCH, JHAPUR

O.A. No. 405/1998
T/A/No MA 350/2002
(IN OA 405/98)

199

DATE OF DECISION 17.9.2002.

D.P.N. SINGH

Petitioner

MR. M.K. SHARMA

Advocate for the Petitioner (s)

Versus

UNION OF INDIA & ORS.

Respondent

MR. BHANWAR BAGRI

Advocate for the Respondent (s)

No. 1, 2, 3 and 5.

MR. T.P. SHARMA

Advocate for the Respondent
No. 5.

CORAM :

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr. Gopal Singh, Administrative Member

14/11/02
May we do
9 agree 17/9/02

1. Whether Reporters of local papers may be allowed to see the Judgement ?

2. To be referred to the Reporter or not? Yes

3. Whether their Lordships wish to see the fair copy of the Judgement ?

4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Gopal Singh)
Member (A)

G.L.Gupta
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

.....
Date of Order : 17.09.2002.

1. O.A. NO. 405 OF 1998
2. M.A. No. 350/2002
(O.A.No. 405/1998)

.....

D.P.N. Singh S/o Late Shri H.P.N. Singh, C-228, Bharat Marg, Hanuman Nagar, Jaipur.

.....**Applicant.**

versus

1. Union of India through Secretary, Ministry of Housing & Urban Development, Nirman Bhawan, New Delhi.
2. Director of Estates, Department of Housing & Urban Development, Government of India, Nirman Bhawan, New Delhi.
3. Assistant Director of Estates (Accounts), Housing & Urban Development Department, Nirman Bhawan, New Delhi.
4. Joint Assistant Director (Accounts) P.A.O. (D.G.,CRPF), Mahaveer Nagar, New Delhi, through D.G. CRPF, C.G.O. Colmplex, Lodhi Road, New Delhi-3.
4. Estates Officer, Directorate of Estates, Nirman Bhawan, New Delhi.

.....**Respondents.**

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

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Mr. M.K. Sharma, counsel for the applicant.

Mr. Bhanwar Bagri, counsel for respondents No. 1,2,3 & 5.

Mr.T.P. Sharma, counsel for the respondent No. 4.

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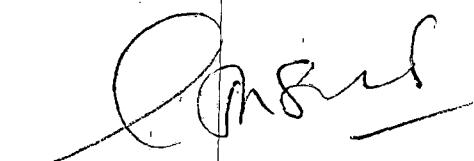
ORDER
[Per Mr. Justice G.L.Gupta]

Through this application, the applicant seeks quashment of the order dated 25.9.1998 (Annex.A/3). The order Annex. A/1 was also called in question but, on 28.8.2002, the learned counsel for the applicant got that portion of relief deleted.

2. The admitted facts, which have emerged out of the pleadings are these. The applicant was a Director General of Police, Central Reserve Police Force (CRPF), New Delhi, in the year 1992. He was in occupation of Quarter No. C.II/20 Bapa Nagar, New Delhi. Vide order dated 14.7.1992, he was allotted Bungalow No. A.B 5, Dr. Zakir Hussain Marg. He occupied the said Bungalow on 22.7.1992 as per the office record.

The applicant's case is that though, he gave the occupation report from 22.7.1992, yet, because of some repairs, he could not take possession of the Bungalow on 22.7.1992 and had shifted to the said Bungalow on 10.8.1992. Be that as it may, it is an admitted position that applicant was in occupation of Quarter No. C.II/20, Bapa Nagar, from 22.7.1992 to 9.8.1992. The applicant retired from service on 30.11.1993 on attaining the age of superannuation. He received a notice from the Estate Officer, in April/May 1997 to which the applicant submitted his reply on 27.9.1997. Thereafter, he received the letter Annex. A/3 asking him to deposit Rs. 4335/-. This letter is the subject matter of controversy in this case.

3. The applicant's case is that the entire licence fee was



deducted from his pay bills and for a small amount, the respondents had launched proceedings against him before the Estate Officer and he had to challenge the same by filing a civil suit before the Additional District Judge, which was not liked by the Director of Estates and he has issued the letter dated 25.9.1998 (Annex.A/3).

4. In the reply, the respondents have tried to justify the issuance of the letter dated 25.9.1998 (Annex.A/3).

5. Rejoinder to the reply has been filed and the respondents have filed additional reply.

6. We have heard the learned counsel for the parties and perused the documents placed on record.

7. Mr. Sharma, learned counsel for the applicant contended that there are discrepancies in the notice Annex. A/1 and order Annex. A/3 which shows that the documents are not on one subject. He pointed out that the applicant was not in a position to vacate the quarter at Bapa Nagar since repairs were going on at Bungalow No. AB 5, Dr. Zakir Hussain Marg, New Delhi. He prayed that the order at Annex. A/3 be quashed.

8. Ms. Shalini Sheron, learned counsel for the respondents, admitting that there are some discrepancies in the documents Annex. A/1 and Annex. A/3 and contended that it was due to mistake in the calculation of amount. Drawing our attention to the letter of the Assistant Engineer dated 1.9.1998 (Annex.R/5) wherein, it was informed to the Assistant Director that the Bungalow No. AB 5, Dr. Zakir Hussain Marg, was never under repair and it was fit for occupation even on 21.7.1992, Ms. Sheron canvassed that the applicant had ever stayed in



the quarter at Bapa Nagar without just cause.

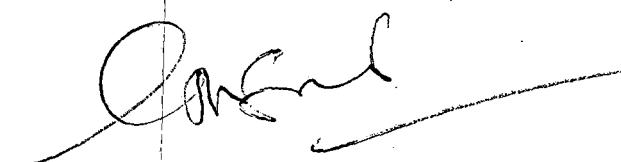
9. We have given the matter our thoughtful consideration. At the outset, it may be pointed out that the Notice Annex. A/1, was issued by the Estate Officer under section 7 (1) of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971, whereas the letter at Annex. A/3, was sent by the Assistant Director of Estates (Accounts). Needless to say the two offices are different and the officers posted in those offices perform duties under different provisions of law.

Estate Officer is appointed under section (3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, and he exercises judicial functions when he passes an order under the Act. There is a provision of appeal against the order passed by the Estate Officer. The appeal lies to the Court of District Judge.

On the other hand, the Assistant Director of Estates, functions under the provisions of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963. His function is to make allotment of the Government quarters to the Central Government employees working in Delhi and to make recovery of the licence fee.

10. When the Assistant Director of Estates, issued the letter Annex. A/3, it cannot be said that it was issued with reference to the Notice Annex. A/1 issued by the Estate Officer. There is a reference of the letter dated 19.3.1998, written by the applicant. The letter dated 19.3.1998, however, has been placed on record.

It appears from the averments made at para 4.2 of the O.A. that the applicant had sent a letter on 19.3.1998 to the Director of



Estates when the notice was not withdrawn by the Estate Officer. It seems, the applicant did not understand the difference between the two functionaries viz. the Estate Officer and the Director of Estates working under the different set of rules and hence, he addressed a letter to the Director though the proceedings for recovery were pending before the Estate Officer. It may also be pointed out that according to the averments made at para 5 of the reply, letter dated 25.9.1998 was written to the applicant as reply to his letter dated 11.9.1997. The said letter dated 11.9.1997 is also not before us.

Be that as it may, it has to be held that there was absolutely no connection of the letter Annex. A/3 sent by the Assistant Director, Estates with the proceedings held by the Estate Officer under section 7.1 of the Act of 1971 and the Notice Annex. A/1, issued thereunder.

11. It is rather surprising that when the Estate Officer, who discharges the judicial functions, was seized of the matter with regard to recovery of money outstanding against the applicant, the Assistant Director, choose to raise a demand for Rs. 4,305/- from the applicant. In our opinion, when the Estate Officer was seized of the matter, the Assistant Director had no power to raise the demand from the applicant. The matter was subjudiced and was to be decided by the Estate Officer in accordance with the procedure prescribed under the Act of 1971.

It is an admitted position of the parties that the proceedings filed before the Estate Officer against the applicant are still pending. If the arrears of rent are outstanding against the applicant, the Estate Officer has to decide the controversy.

12. There is yet another aspect of the matter. Notice was issued



by the Estate Officer. Reply to the notice was submitted to the Estate Officer. The Assistant Director of Estates, nowhere came in the picture. Therefore, if any order has been passed by the Assistant Director in relation to Annex. A/1, it is wholly without jurisdiction and is liable to be set aside.

13. In view of what we have discussed above, the letter dated 25.9.1998 is liable to be quashed.

14. Consequently, the O.A. is allowed and Annex. A/3 dated 25.9.1998 is hereby quashed. The applicant shall get Rs. 500/- as costs from the respondents.

15. In view of the order passed above, no orders are required to be passed in M.A. No. 350/2002. The M.A. also stands disposed of.

Gopal Singh

(Gopal Singh)
Member (A)

G.L.Gupta

(G.L.Gupta)
Vice Chairman

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jrm