

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 444/98
T.A. No.

199

DATE OF DECISION

1/9/99

Rudra Dutt Sharma

Petitioner

Mr .C .B .Sharma

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Mr .K .N .Shrimal

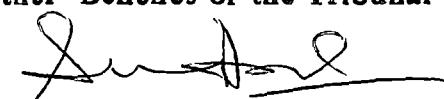
Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.K.Agarwal, Judicial Member

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? **No**
2. To be referred to the Reporter or not ? **yes**
3. Whether their Lordships wish to see the fair copy of the Judgement ? **yes**
4. Whether it needs to be circulated to other Benches of the Tribunal ? **No**


(S.K.Agarwal)
Judicial Member.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.444/98

Date of order: 1/9/99

1. Rudra Dutt Sharma, S/o Shri Mohanlal Sharma, aged about 47 years, R/o Quarter No.65, Type-II, Postal Colony, Malviya Nagar, Jaipur, presently working as Postman, Shastri Nagar Head Post Office, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt. of India, Deptt. of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi - 110 001.

2. Chief Post Master General Rajasthan Circle, Jaipur-302007.

3. Senior Superintendent of Post Offices, Jaipur City Postal Division, Jaipur-302 006.

4. Post Master Shastri Nagar Head Post Office, Jaipur-302016.

...Respondents.

Mr.C.B.Sharma - Counsel for applicant.

Mr.K.N.Shrimal - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application the applicant makes prayer to direct the respondents to refund the amount already deducted from the salary of the applicant in excess of the normal rent and to treat the order dated 6.3.97, 26.11.96 and any other order passed by them as cancelled in view of the allotment order dated 14.10.98.

2. In brief the facts of the case as stated by the applicant are that he is working as Postman at Shastri Nagar Head Post Office, Jaipur and was allotted Quarter No.31 situated in Postal Colony, Malviya Nagar, Jaipur, vide order dated 17.7.96. It is stated that after occupying the Quarter, Licence Fee of Rs.110/- per month was deducted from the salary of the applicant. Suddenly respondent No.3



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cancelled the said allotment vide order dated 26.11.96 on the allegation of sub-letting, without any enquiry and without affording an opportunity of hearing to the applicant, started recovery of Rs.1994/- per month (36.26 Sq.Mtr x Rs.55/-). The applicant submitted representations dated 6.12.96, 12.12.96 and 6.1.97 but with no result. Finally the applicant was asked to vacate the said Quarter within 3 days vide order dated 6.3.97. Therefore, the applicant served upon the respondents a legal notice dated 6.3.97 and the applicant was advised to apply for change of quarter upon his application for change of quarter was allowed vide order dated 14.10.98. It is stated by the applicant that the action of the respondents to cancel the allotment and recovery of damage rent is arbitrary, unjust and against the principles of natural justice. The applicant is a low paid employee, therefore, recovery of Rs.1994/- per month as damage rent from the applicant is causing undue hardship to the applicant. Therefore, the applicant filed this application for the relief as mentioned above.

3. Counter was filed. It is stated in the counter that applicant sought the cancellation of order dated 6.3.97 for which this O.A was filed in December 1998. Therefore, this O.A is barred by limitation as delay in filing this application has not explained at all. It is also stated that the applicant has violated the terms of allotment by permitting other persons to reside in that quarter which was established by an enquiry. Therefore, allotment was cancelled. Applicant did not vacate the quarter after cancellation of the allotment, therefore, Damage Rent was to be recovered from him from 26.11.96 as the applicant did not handover the possession of the said quarter in spite of repeated reminders to the applicant. It was admitted in the counter reply that Quarter No.65 was allotted to the applicant vide order dated 14.10.98. But it is stated that the applicant remained in unauthorised occupation after cancellation of allotment of Quarter No.31, the action of the respondents in recovering the damage rent from the applicant is perfectly legal and the



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applicant is not entitled to any relief as sought for.

4. No rejoinder was filed to controvert the facts stated in the counter.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The learned counsel for the applicant submitted that cancellation of allotment of the quarter allotted to the applicant was in violation of the principles of natural justice. No show cause notice or opportunity of being heard was provided to the applicant before cancellation of allotment. Therefore, on the basis of such cancellation of allotment the recovery of damage rent from the applicant is not legal and sustainable in law.

7. On the other hand the learned counsel for the respondents has submitted that on enquiry it was found that the quarter in question was given by the applicant to the students of Malviya Regional Engineering College, for their residential purpose. Therefore, the respondents were perfectly justified in cancelling the allotment on the basis of enquiry made by the Assistant Superintendent Post Offices, Jaipur. He has also argued that damage rent was imposed on the applicant on the basis of rules and it cannot be said to be excessive in any way.

8. I gave thoughtful consideration to the rival contentions of both the parties and also perused the whole record.

9. On the basis of the averments made by the parties, it appears that this Application appears to be barred by limitation as order dated 26.11.96 and 3.7.97, which are challenged in this application in December 98, i.e. after one year from the date of passing of these orders. No delay has been explained by the applicant in any way and no delay ~~for~~ condonation application has been filed in the instant case.

10. Even otherwise on merits, the applicant has no case in his favour for interference by this Tribunal.



11. On a perusal of the order of allotment of Quarter No.31 dated 17.7.96, it appears that a specific condition was mentioned in the order that the applicant shall not permit any other person unauthorisedly to reside in the said quarter but on enquiry made by the Asstt. Superintendent Post Offices, Jaipur, it was noticed that few students of Malviya Regional Engineering College were found living in that house. In this way condition of allotment as laid down in the allotment order was violated. In view of this the allotment of quarter No.31 was cancelled vide order dated 26.11.96. It also appears that the applicant did not vacate the said quarter unless he was allowed a change of quarter and he occupied the same. The learned counsel for the applicant has submitted that before cancellation of allotment no opportunity of hearing was given to the applicant and the applicant is a poor Postal employee, therefore, recovery of Rs.1994/- per month from his salary is causing great hardship to him. From the enquiry made by Asstt. Superintendent Post Offices, Jaipur, it was established that the applicant has allowed certain students of the Malviya Regional Engineering College to reside in that quarter, thereby violated the terms of allotment which led to cancellation of allotment, under such circumstances, it is neither arbitrary nor unjust. As regards recovery of damage rent from the applicant is concerned, the respondents are entitled for recovery of damage rent from the applicant till he did not vacate quarter No.31 situated in Postal Colony, Malviya Nagar, Jaipur. Admittedly, the applicant did not vacate the said quarter till he was allowed change of quarter vide order dated 14.10.98. No material basis has been shown to prove the fact that damage rent charged from the applicant is against the rules or excessive. Therefore, no interference by this Tribunal is called for.

12. The learned counsel for the applicant has laid emphasis that applicant is a poor Postal employee and on the basis of ex parte enquiry allotment was cancelled and later on he was allowed change of

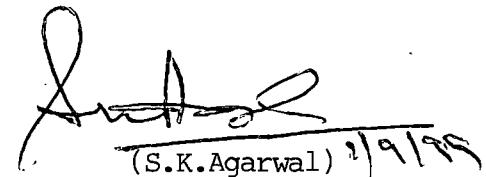


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quarter vide order dated 14.10.98. Therefore, looking to the poor financial conditions of the applicant, lenient view should be taken in favour of the applicant and he should be allowed to file representation to the respondents to consider the case of the applicant sympathetically.

13. No doubt, the cancellation of allotment of Quarter No.31 was on the basis of enquiry made by Asstt.Superintendent Post Offices, Jaipur which appears to be an ex parte enquiry, but the same is not under challenge. Therefore, the applicant is not entitled to any relief regarding cancellation of allotment and quashing the recovery of damage rent. However, it is provided that if the applicant makes a representation to respondent No.3, within two weeks from the date of passing of this order, the respondents shall dispose it of sympathetically by passing a reasoned and speaking order taking into consideration the financial conditions of the applicant as well as the conditions under which the applicant was allowed to change of quarter.

14. With these directions, the O.A is disposed of with no order as to costs.



(S.K. Agarwal) 1/9/98

Judicial Member.