

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.1653/2016

Monday, this the 27th day of February 2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

R K Lal, aged 50 years
s/o Mr. M Lal
working as Deputy Director
o/o JS (Training & CAO)
Ministry of Defence
Govt. of India, 'E' Block, Hutments,
New Delhi – 11

r/o No.84 DDA SFS Flats, Sector 11
Pocket-1, Dwarka, New Delhi

..Applicant

(Mr. Yogesh Sharma, Advocate)

Versus

1. Union of India through the Secretary
Ministry of Urban Development, Govt. of India
Nirman Bhawan, New Delhi
2. The Director of Estates-II
Ministry of Urban Development, Govt. of India
Nirman Bhawan, New Delhi
3. The Assistant Director of Estates (E)
Ministry of Urban Development, Govt. of India
Nirman Bhawan, New Delhi
4. The Joint Secretary (Training) & CAO
Ministry of Defence
Govt. of India, E Block, Hutments
DHQ, PO, New Delhi – 11

..Respondents

(Mr. Satish Kumar, Advocate)

O R D E R (ORAL)

The applicant is working as Deputy Director in the Armed Forces Headquarters. In the year 2006, he was allotted a government accommodation (quarter) at J-129, Sarojini Nagar by the Directorate of Estates (respondent Nos. 2 & 3). He had submitted **an application for**

sending prior intimation regarding sharing of accommodation to the Directorate of Estates dated 19.10.2012 that he would be sharing the said residential accommodation with one Mr. Prem Chand, Deputy Manager (retired), ITDC. For it, the applicant relied upon the Annexure A-4 Compendium issued by the Ministry of Urban Development (respondent No.1) under S R 317-B-20 relating to subletting and sharing of residences. The relevant part of said Compendium reads as under:-

“2. Only one sharer is permitted. No permission is needed for sharing accommodation. But the particulars of the sharer be intimated to the Directorate of Estates within two months of the date of commencement of sharing.”

2. An Inspection Team of the Directorate of Estates inspected the said quarter on 03.11.2012 and its report (pages 32-33 of the paper book) at column No.16 noted as under:-

<p>“16. Does the Inspection Team suspect that the quarter is sublet? If yes or no, ground on which the Team have based their conclusion</p>	<p>Yes, as the occupant provided the sharing certificate issued by Directorate of Estates but no member of the allottee's family was present in the quarter. Hence, subletting suspected.”</p>
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3. Based upon the report of the Inspection Team, respondent No.3, vide Annexure A-1 order dated 10.10.2013, cancelled the allotment and directed the applicant to hand over the vacant possession of the said quarter to CPWD. Prior to the issuance of Annexure A-1 order, a show cause notice was also given by respondent No.3 to the applicant, to which he had replied.

Aggrieved by the impugned Annexure A-1 order, the instant O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985.

4. Arguments of learned counsel for the parties were heard. Learned counsel for applicant submitted that the applicant had shared the quarter with Mr. Prem Chand and an intimation to that effect was given to the Directorate of Estates well in advance. He further submitted that the sharing of accommodation is in accordance with the Compendium of instructions issued by the respondents under S R 317-B-20. He further argued that on the date of inspection by the Inspection Team, the family members of Mr. Prem Chand had intimated to the Team that the applicant had gone to Janakpuri, as his mother in law was ill. He said that the applicant has not indulged into any kind of illegality and as such the impugned order is illegal and deserves to be quashed and set aside.

5. *Per contra*, Mr. Satish Kumar, learned counsel for respondents submitted that the applicant has not been residing in the quarter, which could be borne out from the fact that in his electoral ID card, his address is indicated as that of his DDA flat at Dwarka. He further submitted that on the date of inspection, no one from the family of the applicant was present, which would go to indicate that he indeed had sublet the said quarter to Mr. Prem Chand. As such, the cancellation, vide Annexure A-1 order by the respondents, is absolutely in order and thus the O.A. is liable for dismissal.

6. Replying to the arguments of learned counsel for respondents, learned counsel for applicant submitted that the applicant has placed on

record copies of his ration card, CGHS card and pass book of bank account to indicate that he and his wife indeed were residing in the quarter. He further submitted that applicant's children, however, reside at their DDA flat at Dwarka and he and his wife frequently visit them at Dwarka.

7. I have given my thoughtful consideration to the arguments put-forth by learned counsel for the parties and have also perused the material placed on record.

8. The applicant has given the requisite intimation to the Directorate of Estates regarding sharing of the quarter, in the prescribed format, as required under the Compendium issued by the Directorate of Estates. On the day of inspection, although he was not present but the family members of the sharer of the quarter (Mr. Prem Chand) had intimated the Inspection Team that the applicant had gone to Janakpuri to visit his ailing mother-in-law. The argument put-forth on behalf of the respondents that none of the family members of the applicant were present at the time of inspection, which would go to show that the accommodation has been sublet, is a bizarre argument. There could be numerous occasions when the allottee with his family members would have gone out together and if in that period any inspection takes place, naturally no members of the family of the allottee would be present. The applicant has produced the copies of his ration card, CGHS card and pass book of bank account, which would indicate that his residential address was the government quarter allotted to him. As admitted by the applicant, his children were separately residing at Dwarka and he was residing along with his wife at the allotted quarter. Thus it is natural to assume that the family as a whole might have given

their permanent address at Dwarka for the purpose of their electoral ID cards.

9. In view of the details described in the pre-paragraph, I am of the view that the impugned Annexure A-1 order dated 10.10.2013 is presumptuous in nature to the effect that it presumes that the applicant had sublet the accommodation. The order does not take into consideration the subletting factor as well as certain documents, viz. copies of rational card, CGHS card and pass book of bank account of the applicant. Hence, it deserves to be quashed and set aside.

10. In the conspectus of the discussions in the foregoing paragraphs, the O.A. is allowed. Impugned Annexure A-1 order dated 10.10.2013 is hereby quashed and set aside. The applicant is entitled to all consequential benefits. No order as to costs.

(K.N. Shrivastava)
Member (A)

February 27, 2017
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