

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**OA-2346/2017**

**Reserved on : 06.03.2018.**

**Pronouncement on : 11.04.2018.**

**Hon'ble Ms. Praveen Mahajan, Member (A)**

Sh. Amar Pal,  
Aged about 59 years,  
S/o Sh. Rameshwar Dayal,  
R/o H.No. 103, Gali No.10,  
Old Rajeev Nagar,  
Mata Road, Gurgaon(HR)  
Office at:  
DAD, East Block-3,  
Level-7, R.K. Puram,  
CPWD, New Delhi-110066.

.... Applicant

(through Sh. S.K. Gupta, Advocate)

Versus

Union of India through

1. Secretary,  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
2. Director General of Works,  
Central Public Works Department,  
Nirman Bhawan, New Delhi.
3. Asstt. Director of Estate (Accounts),  
TCC Section, Directorate of Estate,  
Nirman Bhawan, New Delhi.

.... Respondents

(through Sh. S.M. Zulfiqar Alam, Advocate)

## **ORDER**

Briefly stated, the facts of the current O.A. are that the applicant is working as Motor Lori Driver in the office of Delhi Administrative Division, East Block-3, Level-7, R.K. Puram, New Delhi. He was allotted the government accommodation No. 719, Type-III, Sarojini Nagar, New Delhi on 11.07.2016. Shortly thereafter an inspection was carried out on 13.07.2016. The applicant was issued show cause notice dated 21.07.2016 along with the inspection report dated 13.07.2016 alleging that he has completely/partially sublet the government accommodation. The same was confirmed vide order dated 22.09.2016. By another order dated 22.09.2016, the allotment of the aforesaid quarter was cancelled.

2. Proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 were initiated against the applicant and a notice under clause (b)(ii), sub section (ii) of Section 4 of the aforesaid Act was issued calling upon him to appear before the Estate Officer on 20.12.2016. The applicant appeared before the Estate Officer, who after examining all the relevant documents came to the conclusion that subletting of the said accommodation is not established. However, the applicant received a communication dated 03.02.2017 calling upon him to pay damages amounting to Rs. 3,45,556/- for overstaying in the government accommodation for the period 13.07.2016 to 12.01.2017. The

applicant represented against this recovery. However, vide another communication dated 05.06.2017, he was asked to deposit an amount of Rs. 6,97,955/-. The applicant states that he had vacated the said government accommodation on 05.04.2017, and is being unduly harassed by illegal orders issued by the respondents. Hence, the applicant has approached this Tribunal seeking the following relief:-

- “(i) quash and set aside the communication dated 03.02.2017 (Annexure-A-1) and 05.06.2017 (Annexure-A-2).
- (ii) quash and set aside the communication dated 06.07.2017 (Annexure-A-3) along with the speaking order dated 22.09.2016 (Annexure-A-4) and another order dated 22.09.2016 (Annexure-A-5) with all consequential benefits.
- (iii) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”

2. In the reply filed by the respondents, it is submitted that during inspection of the allotted quarter to the applicant, it was found that he had sublet the said accommodation. Show cause notice dated 21.07.2016 was issued to the applicant asking him as to why the allotment in his name may not be cancelled. The Estate Officer, after considering and hearing the applicant, concluded vide his order dated 09.02.2017, that the case of subletting the quarter has not been made out against the applicant. Respondents state that the Estate Officer instead of issuing eviction order has closed the case without having requisite powers to do so under the PPE Act, 1971. They further state that the applicant has vacated the

government accommodation on 05.04.2017 of his own accord to avoid payment of damages to be charged from him.

3. I have gone through the facts of the case and considered the rival contentions of both sides.

4. The applicant received the physical possession of government accommodation allotted to him on 11.07.2016. It has been alleged that on receipt of repeated telephonic and written complaints on record regarding subletting of Quarter No. GI-719, Sarojini Nagar, New Delhi, the quarter was inspected on 13.07.2016 at 02.58 p.m. The respondents have stated that neither the allottee nor his immediate family were present in the accommodation at that point of time. The persons present were one Sh. Girish and his daughter Ms. Himakshi, who are the persons suspected to be staying by way of subletting the quarter.

5. The respondents in their counter have given details of all that transpired during the course of hearing, the defence of the allottee and the subsequent investigations undertaken by them with regard to the allegation of subletting the quarter etc. The case seems to revolve around the statement of a 11<sup>th</sup> standard student and the subsequent verification done by the respondents in this regard. The case of the respondents is that there were contradictions between the statement of the allottee (the applicant in the OA) and that of

Ms. Himakshi regarding the residential address and the address shown in the I Card of the student in regard to her school etc.

6. The applicant has stated that when he was performing the "Grah Pravesh Ceremony", the said inspection was carried out. Mere presence of some guests/relatives of the allottee at the time of inspection cannot be taken as any kind of evidence that the accommodation had been sub let by the allottee. It is an admitted fact that the physical possession of the government accommodation was given to the allottee only on 11.07.2016. It is not understood how persistent complaints could have been received, within a span of two days from the date of allotment?.

7. It is also strange that a young girl studying in Class-11<sup>th</sup>/12<sup>th</sup> was called to the office of the respondents for her statement to be recorded. If any statement was required to be recorded then it should have been of the father of the girl Sh. Girish rather than calling a young girl student to the office of the respondents. In my view, this action of the respondents shows the perfunctory nature of the enquiry conducted by them.

8. The impugned orders dated 03.02.2017 and 05.06.2017, seem to have been issued arbitrarily without following proper procedures and in violation of principles of natural justice.

9. The same view has been taken by the Estate Officer in his order dated 09.02.2017, who has held that:-

"The Union of India through Directorate of Estates moved this case to initiate the eviction proceedings against Shri Amar Pal (O.P.) resident of Block-GI, Quarter No. 719, Sarojini Nagar, New Delhi. The allotment of the premises in question was cancelled w.e.f. 22 September, 2016 vide letter No. DE/8/6786/SJN/E/2016. However, O.P. has not vacated the premises which was allotted to him for the bonafide use of himself and his family. In support the Department has enclosed a copy of the inspection report dated 13.07.2016, Proceedings Note before the DD (Inquiry) and copy of the cancellation letter dated 22.09.2016.

The applicant Department has submitted that after receiving the complaint of subletting the quarter to some other person and inspection team visited the premises on 13.07.2016 at 2.58 P.M. and found Ms. Himaxi (Name mentioned in inspection report) and Sh. Girish in the premises. In view of this, inspection team suspected that the allottee has sublet the quarter. Therefore, the Deciding Authority of the Department, after being satisfied with the facts, laid down penalty and cancelled the allotment of the quarter. The case has been moved before the under signed to initiate the eviction proceedings, Show-cause notice was issued to the O.P. for appearing on 20.12.2016 at 2.30 P.M. O.P. appeared and filed the reply. Along with his reply O.P. has filed copies of (1) Identity card of CPWD (2) Syndicate Bank Pass-Book (3) Electricity Bill (4) Water Bill receipt of New Delhi Municipal Council [Addresses are mentioned GI-719, Sarojini Nagar, New Delhi in all these papers]. (5) School I-card of Ms. Himakshi Lohani (Class:X A) and Aadhar Card of Sh. Girish Chandra Lohan [Addresses are mentioned House No. 847, Sarojini Nagar, New Delhi-110023]. O.P. stated that the quarter was allotted on 06.04.2016 (Enclosure-A) & Physical occupation was given to him on 11.07.2016 (Enclosure-B) after completion of renovation by CPWD. He was planning to shift to the allotted house GI-719 Sarojini Nagar, but before final shifting he had to perform the Graha Parvesh Pooja on 13.07.2016. On that fateful day, there was a small gathering of near and dear relatives. On the same day Inspection team came to his house number GI-719 Sarojini Nagar on pretext of checking, door was opened by the O.P.'s relative daughter Ms. Himakshi who and her Father Girish Chandra were called for Graha Parvesh Pooja at 2.30 P.M. On the day while rest of the relatives were busy in other works inside the house including his wife.

In his reply O.P. has also stated that he has already produced the Physical Occupation Report, I D card and passbook on 03/08/16 to DD(E) and again he was appeared with the daughter of his relative (Ms. Himakshi) along with her school ID card shown to DD(E). Department has not Participated in the Proceedings nor has filed response to reply of O.P. there are no witnesses to the inspection report to prove that the premises in question was sublet. The appeal of Shri Amarpal O.P. was not decided by the Directorate of Estate,

and it is also not established that O.P. was give a fair hearing by the department. O.P. was shifted the allotted house on 11.07.2016 and inspection was carried out on 13.07.2016, hence, it is not possible that O.P. sublet the quarter within two days.

In view of the observation above, I am of the view that the ground of subletting the premises to Ms. Himakshi and Sh. Girish by O.P. is not established beyond doubt. Accordingly, the case is closed with the liberty to re-inspect the premises and if subletting is found, then department may file fresh case.

A copy each of the order may be given to the Applicant Department and opposite party."

10. I concur with these findings, which are duly supported by the available record. Hence, O.A. is allowed and the impugned orders dated 03.02.2017 and 05.06.2017 are quashed and set aside. The communication dated 06.07.2017 alongwith the speaking order dated 22.09.2016 are also set aside. However, the respondents are at liberty to conduct a fresh enquiry if considered necessary for establishing the allegation of subletting etc. of the premises and proceed in the matter, as per law. No costs.

**(Praveen Mahajan)**  
**Member (A)**

**/Vinita/**