

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

O.A.No.100/2852/2014

Order reserved on 03rd August 2016

Order pronounced on 09th August 2016

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

Mr. Yashpal Batra, aged 54 years
(Designation : Fitter General Mechanic (FGM))
s/o Mr. Pran Nath Batra
r/o Qtr. No.P-14/1, Uri Enclave
Delhi Cantt. - 10

(Mr. S C Singhal, Advocate)

..Applicant

Versus

1. Union of India
Ministry of Defence
Through its Secretary
South Block, New Delhi
2. Station Commander
Station Headquarters
Delhi Cantt. 10

..Respondents

(Mr. Krishna Kumar, Advocate)

O R D E R

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985. The prayer made in the O.A. reads as under:-

“It is therefore most respectfully prayed that the cancellation of the allotment vide impugned order bearing No.202/6/A/P-14/1/UE/Q5 dated 18th July, 2014 signed by Shri J.D. Choudhury, Lt. Col. SSO (C) for Station Commander thereby cancelling the allotment of Government accommodation No.P-14/1, Uri Enclave, Delhi Cantt. be declared illegal, unlawful, null & void and be quashed.”

2. The brief facts of the case are under:
3. The applicant is working with Military Engineering Service (MES) as a Key personnel. He was allotted government accommodation No.P-14/1,

Uri Enclave, Delhi Cantt. vide Annexure A-1 allotment letter dated 30.01.2008. He was served with Annexure A-2 show cause notice on 13.05.2014 alleging that he had made alterations in the government accommodation, viz. constructions of a temporary garage, one room in the backyard and installation of one widow AC.

4. The applicant vide his Annexure A-3 reply dated 24.05.2014 informed that he had demolished the temporary garage constructed by him and he had also removed the window AC. As regards the additional room constructed in the backyard of the quarter, the applicant explained that the same had been constructed by the previous allottee and that it was existing when he was given the possession of the said quarter. Apparently, there was a second inspection conducted by the monitoring team of respondent No.2 on 12.06.2014, who brought to the notice of respondent No.2 that the applicant has not removed the unauthorized construction. As a consequence of it, respondent No.2, vide Annexure A-4 order dated 18.07.2014, cancelled the aforementioned quarter allotted to the applicant. Aggrieved by the said action of respondent No.2, the instant O.A. has been filed by the applicant.

5. Pursuant to the notices issued, the respondents filed their counter reply and thereafter the applicant filed his rejoinder. With the completion of pleadings, the case was taken up for hearing the arguments of the parties on 03.08.2016. Mr. S.C. Singhal, learned counsel for applicant and Mr. Krishna Kumar, learned counsel for respondents argued the case.

6. The learned counsel for applicant, besides narrating the case history and highlighting the issues raised in the O.A., submitted that pursuant to

the show cause notice dated 13.05.2014, the applicant has demolished the temporary garage, removed the window AC and demolished the room constructed by the previous allottee in the backyard, and that an intimation to this effect has been submitted by the applicant to respondent No.2 on 24.05.2014. Such being the factual position, the respondent No.2 was not justified in issuing the impugned Annexure A-4 cancellation order dated 18.07.2014, the learned counsel argued.

7. The learned counsel for applicant vehemently controverted the averments made by respondent No.2 in his reply that the applicant failed to reply to the second show cause notice issued by respondent No.2 vide No.202/6/A/P-14/1/UE/Q5 dated 20.06.2014. He said that this show cause notice was never received by the applicant.

8. The learned counsel for respondents stated that the applicant failed to comply with the requirements of the show cause notice dated 13.05.2014 wherein he was directed to remove all the unauthorized constructions, including the window AC. He said that it was noticed during the second inspection carried out by the monitoring team of respondent No.2 on 12.06.2014 that the applicant had failed to remove the unauthorized constructions. Under these circumstances, the respondent No.2 was left with no option, except to pass the impugned Annexure A-4 order of cancellation dated 18.07.2014, the learned counsel argued. He further submitted that the matter has already been referred by respondent No.2 to the Estate Officer for initiating action against the applicant for his eviction from the quarter under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for short “P.P. Act”). Concluding his arguments, the

learned counsel for respondents stated that the remedy for the applicant lies before the Estate Officer under the P.P. Act and not before this Tribunal. He said that the O.A. deserves to be dismissed.

8. I have considered the arguments put forth by the learned counsel for the parties and have also perused the pleadings and documents annexed thereto.

9. It was submitted categorically on behalf of the applicant that the applicant has already demolished the temporary garage constructed by him as well as the extra room constructed in the backyard, purportedly by the previous allottee. The window AC has also been removed. The learned counsel for applicant further stated that an intimation to this effect has been given to respondent No.2 on 24.05.2014 by the applicant. Such being the factual position, we are of the view that action of respondent No.2 to cancel the allotment of the quarter vide Annexure A-4 order, was not justified. Admittedly, the applicant had done some unauthorized constructions. Now since he has removed them, respondent No.2 was expected to show compassion and leniency towards him. As such, I feel that the action of respondent No.2 in issuing the Annexure A-4 cancellation order was a very harsh and unjustified. Such an action is legally not tenable.

10. As regards the jurisdiction of this Tribunal, I would like to observe that the issue under consideration before me is the allotment of the quarter to the applicant and its subsequent cancellation by respondent No.2. Such an issue can certainly be adjudicated by this Tribunal under the Administrative Tribunals Act, 1985. Action under the P.P. Act is to be taken by the Estate Officer for evicting the applicant after it is established that he

is in unauthorized occupation of said quarter. I have adjudicated the legality of Annexure A-4 cancellation order and have held that the said order is legally not tenable. I thus conclude that the applicant is not in unauthorized occupation of the quarter. Therefore, the applicant need not seek any remedy under the P.P. Act, as argued by the learned counsel for respondents.

11. In view of the discussions in the foregoing paragraphs, the O.A. is allowed. The order of cancellation issued by respondent No.2 vide No.202/6/A/P-14/1/UE/ Q5 dated 18.07.2014 (Annexure A-4) is quashed and set aside. No order as to costs.

(K.N. Shrivastava)
Member (A)

/sunil/