

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.4092/2014

New Delhi this the 19th day of October, 2016.

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

Kaushal Kumar, 53 years,
S/o late Bihari Lal,
R/o P-64/6, CVD Lines,
Delhi Cantt-110010.

- Applicant

(By Advocates Mr. A.K. Trivedi and Mr. Ashok K. Vij)

VERSUS

1. Union of India through
its Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Station Commander,
Station Headquarters,
Delhi Cantt-110010.
3. The Garrison Engineer (P),
West, Delhi Cantt-10.

-Respondents

(By Advocate Ms. Avinash Kaur)

O R D E R (ORAL)

Through the medium of this Original Application (OA) filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following main reliefs:

- "i) Quash/set aside the impugned orders dated 20/10/2014 and 12/11/2014 declaring as illegal, unjust, arbitrary, discriminatory and against the provisions of SRO-308/78.

ii) Direct the respondents to allow the applicant to retain/occupy the present Govt. Accn No.P-64/6, CVD Line, Delhi Cantt allotted to the applicant.”

2. The brief facts of the case are as under:

2.1 The applicant joined as Lower Division Clerk (LDC) in Military Engineering Service (MES) on 20.02.1980. He got promotion as Upper Division Clerk (UDC) in the due course. Presently, he is working as UDC in the office of Garrison Engineer (GE) (P), West Delhi, Delhi Cantt.

2.2 The applicant was allotted government accommodation No.P-64/4, CVD Line, Delhi on 09.03.2005. On 15.02.2015 he was transferred to Bhisiana, a tenure station. Vide Annexure A-5 order dated 07.06.2012, he was allowed to retain the accommodation at Delhi Cantt, probably in consideration of the fact that Bhisiana is a tenure station. The Annexure A-5 order reads as under:

“SANCTION OF THE STATION CAOMMANDER DELHI CANTT FOR RETENTION OF SAME MARRIED ACCN “ON POSTING TO TENURE STN”[QTR No.P.66/6 CVD LINE DELHI CANTT-10]

1. Under the provision of HQ Western Command Engineer’s letter No.30203/P/236/EIC(1) dt 07 Dec 2010 retention of the Station Commander, Delhi Cantt is hereby accorded to MES-438353 Sh Kaushal Kumar, LDC of GE (East), Delhi Cantt to retain the Govt md accn No P-64/6, CVD Line (Type-II), Delhi Cantt wef 15 Feb 2012 to till offr is serving in same area i.e GE (AF) Bhisiana.

2. The retention sanction will cease to be applicable immediately on posting out of the indl from above unit or wef the date of the withdrawal of tenure status of the Stn, whichever is earlier.

Sd/-
Col
Adm Comdt

For Stn Cdr

Case File 202/6/AP-64/6/CVD/05
Station Headquarters
Delhi Cantt-10.”

2.3 On completion of his tenure posting of two years, the applicant was posted back to Delhi vide Annexure A-6 order dated 21.07.2014 to the post which he is presently holding. Vide his request letter dated 10.09.2014 (page 17 of the paper-book), the applicant requested the Station Headquarters to allow him to retain his accommodation. The Station Commander rejected his request for retention of the government accommodation and vide impugned Annexure A-1 letter dated 20.10.2014 directed him to vacate the said accommodation. The relevant extract from the said letter is reproduced below:

“2. It is intimated that you were given retn sanction till you serving in same area i.e GE (AF), Bhisiana. It is observed by GE (AF), Bhisiana movement order No.1002/Clk/133/EIB dt 21 Aug 2014 recd vide GE (P) West letter mentioned at para (b) above that you are RTU i.e GE (P) West on 22 Aug 2014. You were required to vacate the accn No.P-64/6, CVD Line within 10 days from the date of SOS i.e 31 Aug 2014 (A/N). Hence, you are unauth occupant wef 01 Sept 2014 to till date of vacation.

3. In view of the above, you are requested to vacate the accn No.P-64/6, CVD Line immediately and your case will be tfr to EO's court for charging of damage rate of rent for unauth retn of accn and physical eviction carried out through Civil/Military Police under PP Act 1971.”

2.4 Aggrieved by the impugned Annexure A-1 letter, the applicant has filed the instant OA, as indicated in para-1 supra.

3. Pursuant to the notices issued, the respondents filed their reply. The applicant thereafter filed his rejoinder. With the

completion of the pleadings the case was taken up for hearing the arguments of the parties on 19.10.2016.

4. The main contention put-forth on behalf of the applicant was that the applicant was allowed to retain the government accommodation on his posting to Bhisiana for the reason that Bhisiana is a tenure station. Hence, on his transfer back to Delhi vide Annexure A-6 order dated 21.07.2014, the competent authority ought to have acceded to his request for retaining the accommodation in which his family was already residing. It was further submitted that the terms of allotment of residential accommodation are governed by SRO 308/78 (Annexure A-8). The respondents in issuing the impugned Annexure A-1 letter have violated the terms of the said SRO-308/78.

4.1 The learned counsel for the applicant further submitted that in issuing the impugned Annexure A-1 letter, principles of natural justice have not been followed as no Show Cause Notice was issued to him.

4.2 Concluding his arguments, the learned counsel prayed for allowing the OA.

5. Per contra, the learned counsel for the respondents argued that the applicant was allotted a married accommodation bearing No.P-64/6, CVD Line, Type-II General Pool on temporary basis on 09.03.2005 while he was serving with GE (East). Since he was posted out to Bhisiana, he ought to have vacated the said

accommodation. It was further submitted that the letter dated 15.02.2012 has been inadvertently issued allowing the applicant to retain the said accommodation.

5.1 The learned counsel further argued that the unit of the applicant never informed the Headquarters regarding his posting outside to Bhisiana. She further stated that there is no provision in the rules to retain or continue the Government Married Accommodation on re-posting to last station from tenure/hard tenure area. She said that the Integrated Headquarters, Ministry of Defence (Army) has confirmed vide their letter No.43017/A/Misc/Pol (Qtr) dated 23 Nov 2007 that there is no terms as tenure stations as far as matter relating to quartering is concerned.

5.2 She vehemently argued that the contention of the applicant that there was no Show Cause Notice issued to him is not correct. As a matter of fact, a notice was issued and thereafter only the allotment of accommodation has been cancelled. She said that this Hon'ble Tribunal is not the right forum for adjudicating the matters relating to government accommodations and that the applicant ought to have approached the court of Estate Officer (EO) by way of initiating judicial proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, the PPE Act).

5.3 Concluding her arguments, she prayed for dismissal of the OA.

6. I have given my thoughtful consideration to the arguments put-forth by the learned counsel for the parties as well as the pleadings and the documents annexed thereto.

7. Admittedly, the applicant was posted to a tenure station Bhisiana w.e.f. 15.02.2012. In recognition of it, he was allowed to retain the government accommodation vide Annexure A-5 order dated 07.06.2012. After he has been re-posted back to Delhi, it is only logical that he should have been allowed to retain the said accommodation. Such a practice is followed across the Government. The officers posted out to North East and other hard stations are allowed to retain their government residential accommodation at Delhi and other places. Hence, I do not agree with the arguments put-forth on behalf of the respondents that the applicant was obliged to vacate the accommodation on his posting to Bhisiana. Annexure A-5 order dated 07.06.2012 only confirms the impression that retention of the accommodation was permitted to the applicant in consideration of his posting to a tenure station. The argument of the respondents that Annexure A-5 order has been issued inadvertently cannot be accepted on its face value.

8. As regards the submission put-forth on behalf of the respondents that the matters relating to government accommodation cannot be adjudicated by this Tribunal and that the applicant ought to have sought relief under the PPE Act is repelled on the ground that allotment of government

accommodation is part of service conditions of a Government servant. As such, this Tribunal has jurisdiction to adjudicate the matter even relating to the government residential accommodation.

9. In the conspectus of the discussions in the foregoing paras, the OA is allowed and the impugned Annexure A-1 letter dated 20.10.2014 is quashed and set aside. The respondents are directed to issue a fresh order allowing the applicant to retain his residential accommodation. This shall be done within a period of two months from the date of receipt of a certified copy of this order.

10. No order as to costs.

(K.N. Shrivastava)
Member (A)

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