

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

O.A. No.4078 of 2017

This the 7<sup>th</sup> day of December, 2018

**Hon'ble Ms. Nita Chowdhury, Member (A)**

Tarun Sharma,  
S/o Late Dinesh Kumar,  
R/o Residential Quarter No.582,  
Type-II, N.R.C. Central Jail,  
Tihar, New Delhi-110058.

....Applicant

(By Advocate : Shri Dakesh Rathore)

VERSUS

1. Director General of Prison,  
Office of the Director General of Prison,  
Prisons Head Quarter,  
Near Lajwanti Garden Chowk,  
Janakpuri, New Delhi-110064.
2. Government of NCT of Delhi,  
Through Chief Secretary,  
Delhi Secretariat, A Wing, 5<sup>th</sup> Level,  
I.P. Estate, New Delhi-110002.

.....Respondents

(By Advocate : Ms. Alka Sharma and Ms. Preeti Jha for Mr. Pratap Shanker)

**ORDER (Oral)**

Heard learned counsel for the parties and perused the material placed on record.

In this OA, the applicant is seeking the following reliefs:-

- “a. quash the order bearing No. F-18/(99)/Qtr/Ty-II/2006/5092-5700 dated 12.09.2017 as issued by the Respondent No.1.
- b. direct the Respondents to allow the Applicant to reside in the said Government accommodation, i.e., residential quarter No.582, Type-II, N.R.C., Central Jail Tihar, New Delhi.

- c. present Application may be allowed with the award of exemplary costs in favour of the Applicant.
- d. Any other order that this Hon'ble Tribunal may be deem fit and proper in the facts and circumstances of the case and in the interest of justice in favour of the Applicant and against the Respondents."

3. Grievance of the applicant is against the impugned order dated 12.9.2017 vide which the quarter which was allotted to the applicant vide order dated 20.8.2009 was cancelled with immediate effect and the applicant further directed to handover the possession of the said quarter to PWD along with NOC from electricity department immediately to the respondents.

4. The relevant facts of the case are that the father of the applicant (Dinesh Kumar Sharma), who was working as Head Warden in Tihar Jail Department, Central Jail, Delhi, was allotted a Govt. accommodation, i.e., residential Quarter No.582, Type-II, N.R.C. Central Jail Tihar, Delhi by respondent no.1 and was expired during service on 20.10.2007.

4.1 However, on the request made by wife of the deceased Govt. employee, the wife and other family members of the deceased Govt. employee were allowed to stay in the same accommodation for a period of two years from the date of death on deceased Govt. employee on payment of normal license fees vide order dated 22.1.2008. In the meanwhile, the applicant, i.e., son of deceased Govt. employee, was appointed to the post of Peon in the Personnel Branch of Additional Director (Admn.), Education Department, Old Secretariat, Delhi on compassionate ground and he applied for allotment of the said accommodation in his name. His request was

considered and acceded to by the competent authority and the said accommodation was allotted to him vide order dated 20.8.2009 and since 20.8.2009 till date the applicant is occupying the said accommodation.

4.2 However, vide impugned order dated 12.9.2017, the allotment of the said accommodation was cancelled by the competent authority without issuing any show cause notice or without assigning any reasons for such cancellation, which is violative of principles of natural justice .

5. When this matter came up for admission, this Tribunal vide Order dated 22.11.2017 as an interim measure directed that till then no coercive action shall be taken against the applicant.

6. In response to notice, respondents have filed their reply in which it is stated that there is acute shortage of Government accommodation of Prison Department which is evident from the fact that as against application received from 45 personnel of Prison Department, there are only 20 quarters are available to be allotted. The present accommodation in possession cannot be taken for granted by the applicant particularly in view of the fact that neither he nor any of his family members is a Prison Department employee and these accommodations are exclusively meant for catering the need of accommodation of the Prison Department employee. Further, the security forces like TSP/ITBP/CRPF are also provided accommodation and in view of their increasing strength, there is acute shortage of accommodation in Tihar jail complex.

6.1 It is further stated that for the safety and security point of view also the allotment of the said Govt. accommodation is neither desirable nor feasible any longer as the applicant is not a jail employee or from any other security force deputed at Delhi Prison, thus the applicant who is working with other Government department and none of his family members is working with Prison Department, Delhi, hence he is not entitled to occupy the said Government accommodation which is exclusively for Prison Department employee. Rather, being an outsider his presence in the jail premises is equivalent to breach of security. Visit of relatives and friends of his family in the jail premises also poses as security threat.

6.2 They further stated that the competent authority, i.e. DG (P) has viewed the complaints of unauthorized and illegal activities by anti-social elements in jail premises very seriously and passed order dated 11.8.2017 to enhance the security in jail premises by certain measures and the said order also includes the cancellation of allotment of Flat No.582 which is allotted in the name of Shri Tarun Sharma @ Sonu Sharma.

6.3 In response to the said order, the applicant has not vacated the aforesaid Government accommodation till date. However, a representation was submitted by his mother Smt. Maya Devi, but the same was considered and rejected by the competent authority.

6.4 It is also stated that the competent authority is empowered to take any decision regarding continuing allotment on compassionate ground or cancellation at any point of time, hence,

there was no such need to issue any show cause notice in advance before passing cancellation order on 12.9.2017 as the applicant is not a jail employee and sufficient time had already been given to his family to stay in Govt. accommodation which he and his family does not belong to.

7. From the aforesaid facts and circumstances of the case, it is relevant to observe that it is not the case of the applicant that employees of other departments who have no connection with the Prison Department or security forces like TSP/ITBP/CRPF have also been allotted the similar accommodation in the said premises. It is a fact that the said accommodation is meant only for occupation by the employees Prison Department or security forces like TSP/ITBP/CRPF. However, the applicant's father who was also a member of Prison Department was allotted the same accommodation but when the father of the applicant expired while in service and on the request made by the mother of the applicant, the said accommodation was allowed to be retained for about 2 years from the date of death of the deceased Govt. employee. However, later on applicant was appointed on compassionate ground and the said accommodation was allotted to the applicant on compassion although the applicant, who was working in the department other than Prison Department or none of his family members is employee of Prison Department, cannot be permitted as a matter of right to retain the same accommodation as it is evidently proved by the respondents that there are number of applications as many as 45 pending for grant of accommodation as

against 20 such accommodation. As such the action of the respondents cannot be said to be arbitrary and illegal rather it can be said to be in accordance with the present changed situation which warrants eviction of the applicant from the said accommodation to enable the respondents to allot the same to other eligible Prison Department employee.

8. So far as the contention of the applicant that no show cause notice was given before issuing the impugned order is concerned, the respondents have categorically submitted that against the aforesaid order, a representation was submitted by his mother Smt. Maya Devi, but the same was considered and rejected by the competent authority. As such the plea of the applicant that no show cause notice is not issued is not sustainable in the eyes of law, as the object of show cause notice is to provide an opportunity and the applicant through his mother represented against the impugned order and the same was considered and rejected by the respondents.

9. In the result, for the foregoing reasons, the instant OA being devoid of merit is dismissed accordingly. The interim order granted vide order dated 22.11.2017 stands vacated accordingly. There shall be no order as to costs.

**(Nita Chowdhury)  
Member (A)**

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