

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/01551/2018

DATED THIS THE 21st DAY OF FEBRUARY, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

N. Cyrus
S/o Late J.Nelson
Aged about: 57 years
Working as Draftsman Grade-I
At Karnataka Geo Spatial Data
Centre, Survey of India
Koramangala
Bangalore – 560 034
Residing at:
Quarter No. P/2
Survey of India Staff quarters
Koramangala, Bangalore – 560034.

...Applicant

(By Advocate Sri P.Kamalesan)

Vs.

1. Union of India
Reptd. by Secretary
Ministry of Science & Technology
Government of India
New Delhi-110 001.
2. Surveyor General of India
Hathibarkala Estate
Dehradun – 248 001
3. Director
Karnataka Geo Spatial Data Centre
Survey of India
Kormangala
Bangalore – 560034.

....Respondents

(By Advocate Sri M.Vasudeva Rao, Sr.PC for CG)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The facts leading to the case are as follows:

The applicant while working as Grade I Draftsman at Karnataka Geo Spatial Data Centre at Survey of India, Bangalore, was proceeded under Rule 14 of CCS(CCA) Rules 1965. The charge memo contains two articles of charge as follows:

1. Shri N.Cyrus, while functioning as D/man Gr.II in the Office of the Director, Karnataka Geo-spatial Data Centre, Survey of India, Bengaluru and residing in Survey of India Quarter No.P-2 behaved rudely and used un-parliamentary words with the two labourers of CPWD Maintenance contractors on 20.02.2016.
2. He virtually kept two labourers who were doing cleaning work on the terrace of ' P' Block of Survey of India Colony in captivity for four hours and threatened them of giving police complaint against them.

2. The applicant denied the charges and an enquiry was held. The Inquiry Officer(IO) held that Article I was partly proved and Article II not proved. The disciplinary authority, Addl.Surveyor of India, SZ, Bangalore vide letter dtd.16.12.2016(Annexure-A1) imposed the punishment of withholding increments of pay for three years without cumulative effect and cancellation of Government accommodation. The applicant submitted an appeal to the appellate authority on 28.12.2016. The appellate authority, Surveyor General of India, Dehradun vide letter dtd.25.5.2018(Annexure-A2) modified the punishment to that of withholding of increment for one year but confirmed the punishment of cancellation of staff quarters. Thereafter the O/o the Director, Survey of India vide letter dtd.31.7.2018(Annexure-A3) granted time till 31.8.2018 to vacate the quarters. The applicant submitted representation on 6.8.2018(Annexure-A4) requesting to permit him to retain the quarters on humanitarian grounds. The Director, Survey of India has again intimated the applicant vide letter dtd.17.9.2018(Annexure-A5) that he will be liable to pay damage charges/market rent of Rs.18,800/- p.m. w.e.f. 1.9.2018 in addition, eviction proceedings will be initiated against him. The

applicant again submitted representation on 18.9.2018(Annexure-A6) requesting to permit him to retain the quarters. He submits that he got the status-quo orders on his transfer to Chennai from this Tribunal(Annexure-A7). He further submits that there is no provision under Rule 11 of CCS(CCA) Rules 1965 to impose a punishment ordering cancellation of govt. accommodation(Annexure-A8). Hence, he prayed for quashing the order dtd.16.12.2016 of Additional Surveyor General, Southern Zone, Bangalore, letter dtd.25.5.2018 of Surveyor General of India, Dehradun and complaint dtd.17.9.2018 passed by Director, Karnataka Geo Spatial Data Centre, Bangalore along with direction to the respondents to permit him to stay at Staff Quarters No.P2, Type III.

3. The respondents filed short reply and also reply statement wherein they submit that the applicant was awarded with two punishments by the disciplinary authority as he has held two CPWD workers in captivity for more than two hours on 20.2.2016 who were on duty and doing cleaning work on terrace. As this was against the Estate Rules SR 317-AH-20, the disciplinary authority had ordered for cancellation of the quarters along with withholding of increments of pay for a period of three years without cumulative effect and not adversely affecting his pension w.e.f.1.7.2017. The applicant submitted an appeal to the appellate authority who after carefully examining the matter was kind enough to modify the order to that of withholding of one increment of pay for a period of one year without cumulative effect and not adversely affecting his pension w.e.f.1.7.2017 but confirmed the other punishment of cancellation of govt. accommodation. The applicant has not brought out the facts that both the disciplinary and appellate authorities have ordered to cancel his quarters. Since the order of the disciplinary authority was upheld by the appellate authority, the competent authority issued letter to vacate the quarters and

hand over the premise. The applicant's representation was rejected by the competent authority and he was again intimated to vacate the quarter latest by 31.8.2018. Even then the applicant had not vacated the quarter. Since his occupation of the quarters beyond the time granted for vacation was treated as unauthorised occupation of public premises, he is liable to pay the damage charges/market rent from 1.9.2018 @ Rs.18,800/- p.m. The applicant is taking shelter under the order of disciplinary authority, hiding the fact that the cancellation of the quarters was awarded under para 8 of Survey of India Estate Rules SR 317-AH-20(Annexure-R1). The disciplinary authority had mentioned the rules separately under which both the punishments were awarded. The applicant was earlier issued with warning letters(Annexures-R1-R12) on several occasions and advised him to adhere to the Estate Rules and live a disciplined life by which he does not cause any inconvenience/harm to the Govt. Servants and families failing which a disciplinary action would be initiated against him. Instead of adhering to the Estate Rules, he again indulged in misbehaving with the neighbours. In view of the same, the order of cancellation of quarters was awarded. Therefore, the OA being devoid of any merit is liable to be dismissed.

4. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. Vide Annexure-A1, the disciplinary authority namely the Addl.Surveyor General, Southern Zone has passed a detailed order relating to the charge against the applicant that he had virtually kept two labourers engaged by the CPWD for doing cleaning work on the terrace of 'P' Block of Survey of India Colony where the applicant is a resident, in captivity for four hours. The inquiry officer had found that the charge of confining two CPWD labourers for more than two hours is proved and the other charge relating to the applicant behaving

rudely and using un-parliamentary words with the two labourers was not proved. The disciplinary authority has accepted the findings of the inquiry officer based on the evidences of other witnesses including the staff of the respondents. From a reading of the entire episode, it is obvious that by his own admission the applicant had closed the exit for the two labourers and had gone to the police station to lodge a complaint against them as well as the CPWD. The officers from the respondents' office had come to the site and had got the door unlocked and allowed the labourers to leave after a few hours of captivity. The allegations levelled by the applicant against the Inquiry Officer have been considered but not accepted. The disciplinary authority imposed 'withholding of increments of pay for three years without cumulative effect' and in the second para of his order, he has cancelled the allotment of Govt. Accommodation under para 8 of Survey of India Estate Rules SR 317-AH-20 and also ordered that the applicant is not eligible for allotment of Govt.residential accommodation for a period of next five years.

5. The applicant had appealed against this order. The appellate authority namely the Surveyor General of India had reduced the punishment of withholding of increment from three years to one year without cumulative effect. However, the appellate authority had upheld the second part of the punishment relating to the cancellation of the allotment of Govt. Accommodation. The applicant has challenged these two proceedings and also the order of the respondents vide Annexure-A5 wherein he has been asked to pay market rent since he has not vacated the cancelled Govt. Quarters. From a detailed reading of the case, it is clear that there have been very frequent instances of trouble created by the applicant in the said premises and he was asked in 2015 itself to explain as to why his quarter allotment should not be cancelled. However, no final decision had been taken earlier with

regard to the cancellation of allotment of quarters and he was warned to adhere to the Estate rules and action would be taken to cancel the allotment of the quarters if he continued to act in the same manner. Therefore, we would not like to say anything further with regard to the penalty imposed on the applicant after following due process of law. However, with regard to the cancellation of the accommodation, we find that the respondents have added this cancellation to the disciplinary proceedings which is not in order as cancellation of Govt. accommodation is not one of the penalties under the CCS(CCA) Rules cited by the respondents. Further as seen at Annexure-R1, the proviso to SRO 317-AH-20 clearly states that the allotment of the residence shall not be cancelled except after giving to the officer a reasonable opportunity of being heard in person. Therefore, the respondents should have given a specific notice relating to the cancellation of accommodation to the applicant and thereafter proceeded for further orders. Therefore, we deem it appropriate to quash that portion of the order vide Annexure-A1 & A2. Respondents may initiate fresh proceedings with regard to the same if they deem it appropriate.

6. The OA is disposed of as above. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicant in OA.No.170/01551/2018

- Annexure-A1: Copy of Survey of India, Additional Surveyor General, Southern Zone, Bangalore-34 letter No.C-222-S/4A-NC(SZ) dtd.16.12.2016
- Annexure-A2: Copy of Surveyor General of India, Dehradun letter No.Vig/3153/1196-PF (N.Cyrus) dtd:25.5.18
- Annexure-A3: Copy of Survey of India O/o Director karnataka Geo Spatial Data Centre, Bangalore-34, letter No.C-35-S/4-A(NC) dtd.31.7.2018
- Annexure-A4: Copy of representation of applicant dtd.6.8.2018
- Annexure-A5: Copy of Survey of India, O/o Director, Karnataka Geo-Spatial Data Centre, Bangalore-560034 letter No.E-1371/13-A1(K) Complaint dtd.17.9.2018
- Annexure-A6: Copy of representation of the applicant dated 18.9.2018
- Annexure-A7: Copy of interim order granted by this Hon'ble Tribunal in OA.1461/2018 dtd.14.9.2018
- Annexure-A8: Copy of penalties under Rule 11 of CCS(CCA) Rules 1965

Annexures with short reply:

- Annexure-R1: Copy of Survey of India Estate Rules SR 317-AH-20

Annexures with reply statement:

- Annexure-R1: Estate Rules
- Annexure-R2: Complaint dd.28.3.2002 by Shri Radhakrishnan K. CGO Complex Trivandrum
- Annexure-R3: Letter dtd.9.4.2002 from Executive Engineer, CPWD, Trivandrum
- Annexure-R4: Show cause notice dtd.13.2.2007 issued by the Director, K.G.D.C.
- Annexure-R5: Warning Letter dtd.23.2.2009 addressed to Shri N.Cyrus by the Addl.Surveyor General, Southern Zone
- Annexure-R6: Warning letter dd.21.1.2010 issued by the Addl.Surveyor General, Southern Zone
- Annexure-R7: Complaint dtd.9.11.2015 by Shri Siby Varghese, Surveyor
- Annexure-R8: Complaint dtd.10.11.2015 by Smt.Shantha Ghosh, D/Man Division I
- Annexure-R9: Complaint dtd.10.11.2015 Shri K.Kamalakshan, Assistant
- Annexure-R10: Complaint dtd.10.11.2015 from Shri R.K.Dash, Officer Surveyor
- Annexure-R11: Complaint dtd.10.11.2015 by Shri B.Hemanth Kumar, Officer Surveyor
- Annexure-R12: Complaint dtd.14.3.2016 from Smt.E.S.Gopika, D/Man Division I
