

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI
TA No. 6/2017
CPW 1324/2016**

New Delhi, this the 2nd day of May, 2019

Hon'ble Mr. Pradeep Kumar Member (A)

Mr. Nilotpal Kumar
S/o SH. Kishor Pandey
R/o G-4 Radhapuri,
Krishna Nagar,
Delhi-110051

.....Applicant

(By advocate : Ms Saahila lamba)

Versus

1. Union of India
Ministry of Urban Development
Nirman Bhawan,
New Delhi-110011
2. Directorate of Estates
Govt. of India
Nirman Bhawan,
New Delhi-110011
3. Central Public Works Department
Govt. of India
Nirman Bhawan,
New Delhi-110011

.....Respondents

(By advocate : Mr. Krishna Kumar)

O R D E R (O R A L)

Mr. Pradeep Kumar Member (A):

1. The applicant is working as a Personal Assistant in Ministry of Agriculture. He was allotted quarter no 22 Block WC Type 1S, Pusa Road vide allotment letter dated 31.03.2015 issued by Directorate of Estates.

2. The occupation of the quarter was taken on 07.04.2015. However, the complaint was that the quarter was not habitable and the issue was not resolved and it took some time to make this quarter habitable after repairs like Whitewash, Paints, Repairing, PVC Tank and taking Water line unto the roof, changing WC seat, replacing broken glasses of the doors/windows etc,. The applicant pleads that the occupation date should be treated as with effect from 20.07.2015 only when it became habitable and not 07.04.2015.

This was, however, not agreed by the respondents, and they forced that the occupation of the quarter is to be treated with effect from 07.04.2015 only as the applicant took possession on this date. The applicant felt aggrieved and approached the Hon'ble High Court of Delhi in WP no 1324/2016 wherein vide orders dated 23.03.2016, the matter was remanded to the Tribunal. Accordingly, the present TA has been filed.

3. The applicant pleads that the Directorate of Estates have issued an OM dated 02.01.2015, wherein the first Para reads as under:-

“CPWD issues a Technical Occupation Report to the allottee on receipt of authority slip from the Directorate of Estates in case the allotted accommodation is not ready for immediate occupation and also issue a Physical Occupation Report once the accommodation is ready for occupation and after handing over the accommodation to the allottee in habitable condition.”

4. It was pleaded that when policy directives envisaged two stages of the occupation, the first being technical occupation and the second being once it is in habitable condition. In the instant case, this has not been done and the technical occupation letter signed on 07.04.2015, is being treated as physical

possession also. The applicant, however, pleads that there were many quarters like this, which were vacant for the previous 8 to 10 years and needed a lot of repairs and became habitable only after 20.07.2019 and onwards.

5. The respondents opposed the OA. It was pleaded that the occupation report signed by applicant on 07.04.2015 also indicates that the quarter was immediately habitable. Accordingly, the TA is required to be dismissed.

6. Matter has been heard at length. Ms Saahila Lamba learned counsel represented the applicant and Mr Krishna Kumar learned counsel represented the respondents.

7. The applicant drew attention to the RTI query replied on 11.08.2015 wherein para 2 of the same deals with the said quarter no 22. The position as per this RTI reply reads as under:-

“The allotment letter of WC 22 Staff quarter has been issued on 31.03.2015 and the possession letter has been issued on 07.04.2015. the work relevant to the renovation of this; as Whitewash, Paints, Repairing, PVC Tank and taking Water line unto the roof, to change WC seat, for replacing broken glasses of the doors/windows etc. have been done in the first week of April; only doors of toilet and bathroom which were replaced till 16.06.2015. The bills of these works have not given by the contractor as yet; out of these works some jobs have also been got done from the staffs who are working in the division.”

8. The applicant also drew attention to a letter issued on 09.10.2015 by the Directorate of Estates to the Chief Engineer, CPWD which refers to poor condition of these quarters including quarter no 22. This letter reads as under:-

“This is in continuation of this Directorate’s letter No. 22/1S/PUSA/TI(A)/2015 dated 22.07.2015 and letter no Misc/21/DE-II/2015 dated 16.09.2015. The matter was also discussed with you telephonically on 15.09.2015. The matter pertains to three allottees, viz Shri Nilotpal Kumar, allottee of quarter no 22 Block WC Type IS, Pusa Road, Shri Rupam Bhattacharjee, WE/62, Pusa Road and Shri UWaiz Ahmed Burney, WC/80, IARI, Pusa Road. The problem being faced by these allottees is that the said Service Centre without making the allotted accommodation habitable is allegedly compelling these allottees to take physical possession of the accommodation. The technical occupation report and the physical occupation report have as per the complaint of the allottees, been merged into one.

Vide letter dated 09.09.2015 of the Superintending Engineer, it is seen that in spite of the Competent Authority in CPWD approving the provision for separate toilet for individual quarters: houses have been handed over by CPWD to the allottees without constructing separate toilet for each quarter. Further the toilet doors in the allotted quarters, which were in broken condition, were replaced by CPWD after the allottees had taken possession of the houses. The letter also advises the allottee of quarter no WC 22 to use the adjacent toilet till such time the toilet doors are not fixed in quarter no WC 22. It is apparent from the above letter that allottees are being asked to take technical and physical possession simultaneously without ensuring that the quarter is in a habitable condition. OM nos 12035/15/97-Pol. II dated 29.12.2014 and 02.01.2015 make it amply clear that technical possession is different from physical possession as physical possession follows technical possession.

In view of the increasing complaints of the allottees of Pusa Road: where the allottees are being compelled to take possession of quarters without the quarters being fit for physical possession, it is requested that you may kindly look into the grievances of the allottees ensuring that they have dignified living conditions and advise the concerned Service Centre to provide houses with decent habitable conditions. You may kindly examine the matter at your end and furnish your comments at the earliest to this Directorate.”

This indicates that major repairs were indeed needed in said quarter.

applicant that he physically occupied the quarter w.e.f 20.07.2015 is gaining acceptability and especially so in view of position that emerges from official letters as brought out above and there is nothing contrary to the same having been brought out by the respondents.

13. In view of foregoing, OA is allowed. The date of occupation shall be taken as 20.07.2015.

**(Mr. Pradeep Kumar)
Member (A)**

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