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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1259 OF 2003

New Delhi, this the 28th day of August, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Budh Palkash,
P-7/4, Kendriya Vidyalaya,
No. 3 Staff Qrs,
Ring Road, Naraina, New Delhi.

....Applicant.

(By Advocate : Shri M.K. Bhardwaj)

Versus

Union of India & Qrs through

1. The Principal,
Kendriya Vidyalaya Gole Market,
New Delhi
2. The Principal,
Kendriya Vidyalaya No. 3 Ring Road,
Naraina, New Delhi
3. The Assistant Commissioner,
JNU Campus,
Delhi Region, New Mehrauli Road,
New Delhi
4. The Deputy Commissioner (Admn)
Kendriya vidyalaya Sangthan,
Shaheedjeet Singh Marg,
Katwariya Sarai, New Delhi

.....Respondents

(By Advocate : Shri S. Rajappa,)

O R D E R

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant claiming the following reliefs:-

- i) to quash and set aside the Impugned letter No.KVGM/PF-BP/02-03/4386 dated 26.02.2003 (Annexure A-1).
- ii) to quash and set aside the impugned memo No.KVDC-3/2002-3/28 dated 5.5.2003 (Annexure A-2).
- iii) to direct the respondents not to dispossess the applicant from the Quarter No.P-7/4, Kendriya Vidyalaya No.3, Delhi Cantt-10.

S. Rajappa

- iv) to allow the OA with costs.
- v) to pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstance of the case."

2. It is stated by the applicant that he was allotted Quarter No.P-7/4 at residential complex in K.V. No.3, Delhi Cantt. by an order dated 12.10.1999 (Annexure A/7) by the Principal, Kendriya Vidyalaya No.3, Delhi Cantt. By impugned order dated 26.2.2003 (Annexure A-I), the applicant has been conveyed a Memorandum dated 5.5.2003 (Annexure A-II), being an order passed by respondent No.2 pursuant to the directions given in the order dated 6.3.2003 in OA No.514/2003 by this Tribunal. The claim of the applicant is that these orders are on account of the fact that "Respondents got prejudiced against the applicant" on account of representation dated 17.12.2002 made by the applicant to implement the order of this Tribunal in TA No.6/2002, which was allowed by this Tribunal. The applicant also claims that the impugned orders are issued because the respondents were unhappy with the claims of the applicant. Therefore, he has also been placed under suspension by order dated 18.12.2002. On account of "vindictive attitude", the applicant has been asked to vacate the departmental accommodation.

3. The applicant claims that he belongs to scheduled caste/ Balmiki community and his minor child is suffering from Ratinoblastoma (Right Eye) and has been operating in Institute Rotary Cancer Hospital. According to him, the applicant is being

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put to inconvenience by the impugned orders. Therefore, the impugned orders be quashed and set aside.

4. The respondents have opposed the reliefs claimed by the applicant. According to the respondents, the Principal of K.V. concerned is the authority under whose control the allotment of residential accommodation are placed for allotment of those premises to the employees of K.V.S. In the present case, the said accommodation at P-7/4, residential complex in K.V. No.3 is under the control of the Principal, K.V. No.3, Delhi Cantt. The Principal, K.V. No.3, Delhi Cantt, by an order dated 12.10.1999 had allotted the said quarter/house to the applicant with the following stipulation:-

"He will vacate the accommodation as and when there is demand from staff member of K.V. No.3, Delhi Cantt."

5. According to the learned counsel, the allotment to the applicant was purely ad hoc and provisional and after the Principal, K.V. No.3, has asked the applicant to vacate the premises, the same must be vacated by the applicant. The respondents have also pointed out that the applicant had joined at K.V. Badarpur as Safai Karamchari on 4.1.1985 and was given the said accommodation on 16.10.1999 in K.V. No.3, Delhi Cantt premises on his request as a special case. Now the applicant was transferred to K.V. Gole Market on promotion. Therefore, he was required to hand over/vacate possession of the said premises which

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was in his occupation. The maximum admissible period for this purpose in terms of the rules was two months. If the applicant did not vacate the premises within that period, he was asked to pay damages. Since the applicant had challenged the orders dated 26.2.2003 by filing OA No.514/2003 in this Tribunal, the respondents were directed to maintain status quo till the representation of the applicant was decided. In response to the directions of this Tribunal, the impugned order dated 5.5.2003 (Annexure A-II) has been passed. Learned counsel of the respondents invited attention to the provisions of Kendriya Vidyalaya Sangathan (Allotment of Residence) Rules, 1998. Rule 12 provides that an allotment shall be effective from the date on which it is accepted by the employee which should be communicated within 5 days from the date of its receipt and shall remain in force until transferred to another KV/RO/Headquarters at the same or other Station in India. In such cases, the employee could retain the said residence for two months. The applicant has been transferred on promotion on 13.9.2002 to K.V. Gole Market. Therefore, he could retain the quarter upto 13.11.2002. According to the learned counsel, the provisions of charging damage rent on account of overstayal in such residence are contained in Rule 19 of the Rules *ibid*. According to him, even the initial appointment was irregular but in any case, the applicant is to vacate in terms of the provisions contained in the said Rules *ibid*. The learned counsel further stated that the respondents may allow the



applicant to continue to reside provided he pays the damage rent as per the provisions of the Rules.

6. The learned counsel of the applicant also invited attention to the grounds taken by him wherein he has alleged that the applicant has been singled out on account of vindictive attitude of the respondents. In this account, he referred to ground G taken in the OA wherein he has given the details of certain other persons who are residing in different premises though working at different Kendriya Vidyalayas/Sangathan. Hence the discrimination is meted out to the applicant should be declared as illegal.

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7. Having heard the learned counsel for the parties and also having perused the materials available on record, it is noticed that the allotment of subject quarter/House, P-7/4, at Residential Complex in K.V. No.3, Delhi Cantonment as per order dated 12.10.1999 was with a clear stipulation that the applicant will vacate the said accommodation as and when there was demand from staff member of K.V. No.3, Delhi Cantonment. There is no dispute that for P-7/4 at Residential Complex, K.V. No.3, the Principal, K.V. No.3 is the competent authority for the purpose of allotment of the said quarter. He has also asked the applicant to vacate the premises so that the same could be allotted to other employee of K.V. No.3. It is also noticed that the Kendriya Vidyalaya Sangathan (Allotment of Residence) Rules, 1998 provides grace period of two months after the transfer of an employee



from one K.V. to another K.V. The applicant has been promoted on 13.9.2002 and has now been posted in K.V. Gole Market. Therefore, he should have vacate the premises within two months of joining the new place of posting. The applicant, having not done so, was advised by letter dated 17.2.2003 (Annexure A-V) that in case of failure to vacate the quarter, penal rent will be charged w.e.f. 1.3.2003. The order of competent authority viz. Principal, K.V. No.3, Delhi Cantt. dated 17.2.2003 is as per rules on the subject. Therefore, the reliefs claimed by the applicant cannot be allowed. This letter dated 17.2.2003 specifically indicates that regular Group 'D' employees of the Vidyalaya were demanding staff quarter. Therefore, the applicant was advised to vacate the quarter at the earliest as he was obliged under Rules to vacate the same on his transfer from one K.V. to another K.V. However, it is for the applicant to choose as to whether he wants to vacate the premises or intends to pay enhanced licence fee or damage rent from 1.3.2003 as pointed out by the Principal, K.V. No.3.

8. In view of the facts of this case and the reasons as stated earlier, this OA is dismissed without any orders as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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