

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 180/2003

This the 25th day of August, 2003

HON BLE SH. KULDIP SINGH, MEMBER (J)

Jagdish Saran
S/o Late Shri J. Singh,
R/o Flat No. 64, Kaka Nagar,
New Delhi.

...Applicant

(By Advocate: Sh. A.K. Behera)

Versus

1. Union of India
through the Secretary,
Ministry of Urban Affairs & Employment
Nirman Bhawan,
New Delhi - 110 011.

2. Director of Estates,
Directorate of Estates,
Nirman Bhawan,
New Delhi - 110 011.

3. Dy. Director of Estates (I-V),
Directorate of Estates,
Nirman Bhawan,
New Delhi - 110 011.

4. Superintending Accounts
Government of India,
Directorate of Estate,
I-E Section, Nirman Bhawan,
New Delhi - 110 011.

...Respondents

(By Advocate: Mrs. P.K. Gupta)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant in this OA has impugned order dated 14.3.97 which is a notice issued in pursuance of the Supreme Court orders dated 23.12.96 in Writ Petition (Civil) No. 585/94. As per notice dated 14.3.97 the demand was raised upon the applicant for an amount of Rs.38,596/- for damage charges of illegal occupation of the quarter.

2. Applicant contested the show cause notice. However, final order was passed by order Annexure A-2 where the demand was confirmed. Applicant submits that the Hon'ble Supreme

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Court had questioned the allotment made from 1.4.91 onwards so his case was not covered under the petition and the department has only raised a demand for damage charges as the applicant has been allotted the quarter on 22.10.90 which was prior to 1.4.91 and the sanction of allotment was conveyed to the applicant vide Annexure A-3 dated 24.10.90. It is only the possession of flat which was taken by the applicant after 1.4.91, i.e., 4.6.91 and since the allotment was made prior to 1.4.91, so the case of the applicant was not covered under the petition before the Hon ble Supreme Court.

3. As regards the factual situation is concerned, there is no dispute. However, the respondents still maintained that since possession was given to the applicant after 1.4.91, so respondents are right in taking the damage charges. Counsel for the applicant submitted that in a similar circumstances this Tribunal has already passed an order wherein also the allotment was made prior to 1.4.91 but the possession was taken by the allottee therein after 1.4.91. The said judgment was given in OA-644/2001 on 3.5.2001 in case of P.Venkatesan vs. Union of India.

4. The facts of that case are also similar to the facts of the present case and the Tribunal held that the case was not covered under the Supreme Court judgment and the OA was allowed and the impugned letter making demand was quashed. While allowing the OA, Tribunal has also followed an earlier judgment given in OA-1249/97 with connected cases which were allowed with the directions.

5. Following these judgments which are binding on this bench also, I find that Tribunal has no other option but to allow the OA. Accordingly, since in this case also allotment

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is prior to 1.4.91, and notice for damages which was issued to the applicant, is liable to be quashed and the order passed thereon consequent to the said notice is also liable to be quashed.

6. Accordingly, I allow the OA and quash the impugned orders Annexure A-1 and A-2 and direct the respondents to refund the amount charged from the applicant by way of damage charges within 3 months from the date of receipt of a copy of this order. Interest asked for by the applicant is disallowed.



(KULDIP SINGH)
Member (J)

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