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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 22.01.2019**

% **W.P.(C.) No. 638/2019**

UNION OF INDIA & ANR.

..... Petitioners

Through: Mr. Sandeep Mahapatra, Adv.

versus

HIMMAT SINGH CHAUHAN

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A.K.CHAWLA

A.K.CHAWLA, J. (ORAL)

1. Instant petition has come to be preferred by the petitioners seeking to set aside the order dated 18.12.2017 passed by the Central Administrative Tribunal, Principal Bench, in short, 'CAT', whereby, the OA No.3140/2016 filed by the respondent for quashing the communication/order dated 12.05.2016, whereby, the allotment of Govt. accommodation of the respondent was cancelled and the consequential orders that came to be passed by the petitioners, was allowed.

2. Concisely, the relevant facts are that the respondent, during the course of his employment with the Ministry of Environment Forest and Climate Change as Steno Gr.-D, was allotted Qtr. No. 101, Block-L, Sarojini Nagar, New Delhi in short, 'the subject quarter', w.e.f. 30.09.1991. He joined

Airport Economic Regulatory Authority (AERA) on deputation w.e.f. 14.02.2014. Vide the impugned communication dated 12.05.2016, the petitioners cancelled the allotment of the subject quarter in favour of the respondent w.e.f. 12.05.2014 and claimed damages @ ₹14,800/- p.m., followed with the demand of damages of ₹3,48,994/- vide communication dated 20.05.2016. On this, the respondent made a representation dated 02.06.2016 seeking regularisation of the allotment of the subject quarter till the time of his deputation with AERA, which was to end on 13.02.2017. Having made such representation, the respondent on his own request, got repatriated vide office order dated 21.06.2016 issued by AERA and so joined his parent department. The representation made by the respondent against cancellation of the allotment of the subject quarter however came to be rejected and communicated vide letter dated 05.07.2016 of the petitioners. Aggrieved thereof, the respondent approached CAT by way of OA No.3140/2016, in which, the impugned order has come to be passed.

3. Pertinently, the petitioners assail the impugned order on two counts. Firstly, CAT had no jurisdiction to entertain the subject OA inasmuch as according to the petitioners, the subject dispute fell within the realm of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, in short 'the PP Act'. Secondly, AERA was established on 12.05.2009 and as per OM No.12035/14/92/Pol II dated 12.10.2000, the officers posted with PSUs/Statutory/Autonomous bodies etc. on deputation basis, at the time of their initial constitution could retain the General Pool Accommodation for a period of five years only and in view of the fact that such period of five years had come to an end in the case of AERA, the respondent could not

retain the subject quarter after 11.05.2014. In support of such submissions, reliance is placed upon ***Union of India vs. Rasila Ram & Ors.***, (2001) 10 SCC 623.

4. Having given our thoughtful consideration to the subject matter, we do not find any merit in either of the contentions strenuously made on behalf of the petitioners.

5. Allotment of a Govt. accommodation is made as a sequel to employment of the Govt. servant, though, it is regulated by the norms stipulated therefor. In other words, such allotment is a consequence of the service and therefore, we do not see any reason as to why the allotment of a Govt. accommodation, could not be a matter, which fell within the definition of "service matters" as defined under Section 3(q)(v) of the Administrative Tribunal Act, 1985 and thereby, entertainable by CAT. Here, we may only hasten to add that the allotment and the cancellation of a Govt. accommodation is a subject, which is independent and distinct from the eviction proceedings under the PP Act. In view thereof, reliance placed upon ***Rasila Ram's*** case (supra) is misconceived inasmuch as, in that case, the order passed by the Competent Authority under the PP Act had come to be assailed before CAT and in that context, the Supreme Court held that an order passed by the Competent Authority under the PP Act cannot be assailed before CAT. In the case in hand however, the subject matter is of consideration of valid cancellation of the allotment and not any order passed by the Estate Officer under the provisions of the PP Act. Contention of the learned counsel for the petitioners to the contrary is therefore rejected.

6. As regards the plea of the petitioners that AERA having been established on 12.05.2009, the officers posted with it on deputation basis, were not entitled to retain the Govt. accommodation beyond 11.05.2014, we consider, it is really not even required to be gone into in the case in hand, for the simple reason that the cancellation of the allotment cannot be made throwing all the canons of the principles of natural justice and the law to winds. It is to be understood that the petitioner was a lawful occupant on a valid allotment of the subject quarter. In the event, the petitioner had violated any of the terms and conditions of allotment, he should, at least, been provided with an opportunity to explain the alleged violation. It is more so expected of the petitioner, which is a State by itself. Not only that, it is unconscionable that the cancellation could be pre-dated w.e.f. 12.05.2014 with the issuance of the cancellation letter dated 12.05.2016 and that too, as said earlier, even without affording an opportunity to show cause. This action of the petitioners, we are of the considered view, is not sustainable, seen from any angle.

7. For the foregoing reasons, we do not see any reason to interfere with the impugned order. Petition is meritless and is dismissed. No order as to costs.

A.K.CHAWLA, J.

VIPIN SANGHI, J.

JANUARY 22, 2019

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