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

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+ **W.P.(C) 5013/2018 & CMs 19305-19306/2018**

**KUNWAR BAHADUR SINGH** ..... Petitioner

Through: Dr. L.S. Choudhary, Mr Ajay  
Choudhary, Mr Parvinder Singh and  
Mr Anurag Tomar, Advocates.

versus

**UNION OF INDIA AND ORS.** ..... Respondents

Through: Ms Suparna Srivastava, CGSC for  
UOI with Ms Sanjana Dua,  
Advocates.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE TALWANT SINGH**

**ORDER**

% **17.10.2019**

1. On 22<sup>nd</sup> January, 2019, the following order was passed by this Court:

“1. The petitioner assails the order dated 28.03.2018 passed by the Central Administrative Tribunal in O.A. No. 3518/2016. The said original application preferred by the petitioner has been rejected by the Tribunal. The petitioner was serving as a constable in CBI. He was allotted Type I quarter No. 864, Q-Block, Kasturba Nagar, New Delhi.

2. On a complaint being received on 27.10.2015 against the petitioner that he has sublet the said Government accommodation for pecuniary gains, the said quarter was inspected on the very same day. During inspection, it was found that one Beera Devi, wife of Mr. Hayat Singh, daughter of Mr. Umed Singh was in occupation of the quarter and claimed herself to be the petitioner's sister.

3. The petitioner's family was not found in the quarter. Accordingly, the petitioner was issued a show cause notice on

11.12.2015 bringing the said aspect to his notice and requiring him to show cause as to why his allotment should not be cancelled in view of subletting of the quarter to a stranger.

4. The petitioner initially did not respond to the notice. He appeared in response to the notice belatedly but did not take a stand in writing. He claimed that the person found in occupation of the quarter was his sister. When the order of cancellation dated 28.01.2016 was passed by the respondent on account of his failure to explain as to how Mrs. Beera Devi was occupying the quarter, he preferred an appeal and in the said appeal, he claimed that his elder sister Mrs. Mamta Singh, wife of Mr. Dahdr Singh Chauhan had come to his residence and remained there for a period of two months. He claimed that she had come from Lucknow for treatment. Once again, there was no explanation as to how Mrs. Beera Devi, wife of Mr. Hayat Singh and daughter of Mr. Umed Singh was found in occupation of the quarter. He claimed that Mrs. Beera Devi was his neighbour. However, he did not produce any document or other evidence before the respondents to substantiate his claim that Mrs. Beera Devi was his neighbour and not the occupant of the quarter in question.

5. While rejecting the OA, the Tribunal has observed that when the inspection was conducted, Mrs. Beera Devi wife of Mr. Hayat Singh and daughter of Mr. Umed Singh failed to show any document justifying her presence in the quarter. Moreover, the petitioner shifted his stand by initially claiming that Mrs. Beera Devi was his sister, and subsequently claiming that Mrs. Mamta Singh was his sister who had come from Lucknow to stay in the quarter, and Mrs. Beera Devi was a neighbour. This plea was not substantiated by him. Thus, it cannot be said that the action taken against the petitioner was without any basis or substance. The rules of natural justice have been complied with by the respondents and the order cancelling the allotment made to the petitioner, in our view, does not call for interference.

6. The further submission of the petitioner is that in terms of

OM dated 04.08.1987, the ineligibility for allotment of residential accommodation in such cases can only be for a period upto five years, and not more. However, the respondents have sought to debar him from allotment of Government accommodation for all times to come during the period of his service.

7. Counsel for the respondents states, on instructions, that the said rule position has undergone a change and under the current dispensation, the allotment-once cancelled, cannot be restored in such like cases of subletting. Let the respondent file a short affidavit in this respect and place on record the relevant Office Memorandum. The affidavit be filed within four weeks.

8. List on 15<sup>th</sup> July, 2019.”

2. Pursuant thereto, the Respondents have a filed a short affidavit placing on record the Allotment of the Government Residences (General Pool in Delhi), Rules, 1999, which were issued in supersession of the earlier rules of 1963. Under the said Rules, the Directorate of Estates is competent to declare the allottee to be ineligible for allotment for residential accommodation for the remaining period of his service.

3. Although the affidavit also refers to the 2017 Rules, it is not necessary to examine them since they were notified only on 16<sup>th</sup> June, 2017 i.e. after the allotment of the quarters in question to the Petitioner.

4. Learned counsel for the Petitioner doubted whether the notification dated 21<sup>st</sup> July, 1999 was in fact gazetted. There is no occasion for the Court to doubt this fact, particularly since the 2017 Rules, were issued in supersession of the earlier rules. In terms of the Rules notified on 21<sup>st</sup> July,

1999, there is a discretion that vests in the government to declare a person found to be in violation of the terms and conditions ineligible for allotment for the remaining period of his service. In the present case, therefore, it cannot be said that the impugned order passed by the Central Administrative Tribunal (CAT) is bad in law.

5. Learned counsel for the Petitioner then raised the issue that damages had been charged even for the periods subsequent to the Petitioner vacating his quarters in 2016 and that too, for a Type-II accommodation, when in fact he was allotted only a Type-I accommodation. The Petitioner was candid to admit that this issue was not raised by him before the CAT. The Court sees no reason to permit the Petitioner to do so at this stage.

6. There is no merit in this petition and the same is accordingly dismissed. Pending applications are also disposed of. No costs.

**S. MURALIDHAR, J**

**TALWANT SINGH, J**

**OCTOBER 17, 2019**

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