

(2018) 04 CAT CK 0035

In the Central Administrative Tribunal

Case No : Original Application No. 3168 Of 2016

Ashish Anan

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 13-04-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2018) 04 CAT CK 0035

Hon'ble Judges : Raj Vir Sharma, J

Bench : Single Bench

Advocate : Reema Khorana, Veena Kala, Sangeeta Rai

Final Decision : Disposed Of

Judgement

1. The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

"1. To direct the respondent no.3 to allow the applicant to surrender the above mentioned Govt. accommodation ie. C-17, Police Station Mandir Marg, Campus, New Delhi, with immediate effect in the interest of justice.

2. Pass such other and further orders which their lordship of this Hon'ble Tribunal be the fit and proper in the existing fact and circumstance of the case."

2. Resisting the O.A., the respondents have filed a counter reply. The applicant has filed a rejoinder reply refuting the stand taken by the respondents in their counter reply.

3. I have carefully perused the materials available on record and have heard Ms.Reema Khorana, learned counsel appearing for the applicant, and Ms.Sangeeta Rai, learned counsel appearing for the respondents.

4. The applicant is a member of DANIPS of 2008 batch. He joined the service in the year 2009. In the year 2011, he was allotted Quarters No.C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001, wherein

he resided with his wife and daughter till September 2013. He was transferred to Andaman & Nicobar and joined there on 1.10.2013. He was also allotted a Government accommodation in Andaman & Nicobar. He was allowed to retain Quarters No.C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001, for the period permissible under the rules. Due to some matrimonial dispute between him and his wife, the applicant filed a divorce petition under the Hindu Marriage Act in August 2014. Thereafter, the applicant, by his letters dated 17.9.2014 and 26.12.2014, requested the DCP/HQ(Estt.), Police Headquarters, Delhi, to cancel the allotment of Quarters No.C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001 and to sanction HRA in his favour from 1.1.2015. After purchasing a flat No.84, Pocket-9, Sector-23, Rohini, Delhi, on 15.12.2014, by availing of loan from Bank, the applicant claims to have offered the said flat to his wife for her occupation. Instead of acceding to his request for cancellation of allotment of C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001 and for sanction of HRA in his favour from 1.1.2015, Delhi Police, vide a communication dated 30.3.2015 to Andaman & Nicobar Police, made a query as to whether the applicant's request for cancellation of the Government quarters at New Delhi amounts to an attempt to throw out his estranged wife, and whether any disciplinary action is warranted against him. While the matter stood thus, the applicant was transferred to Daman & Diu where he joined in the first week of June 2015. He was also allotted one E-Type accommodation in Daman & Diu. Despite the applicant's written assurance, vide his letter dated 7.8.2016, to the respondent-Department that he was ready to relocate his wife to his flat at Rohini, Delhi, the respondent nos. 2 and 3 did not take any decision on his letters for cancellation of allotment of Quarters No.C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001. That is why the present O.A. was filed by the applicant on 1.9.2016.

5. In the context of the above, it has been contended by Ms.Reema Khorana, learned counsel appearing for the applicant that the respondents have acted arbitrarily and unreasonably in not acceding to his request for cancellation of allotment of Quarters No. C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001. The pendency of the matrimonial dispute between the applicant and his wife has nothing to do with the allotment and/or cancellation of the aforesaid Government accommodation. The respondent nos. 2 and 3 have failed to consider the applicant's request in proper perspective and in accordance with rules and have rather acted on the purported complaint made by his wife. The applicant's wife has no locus standi in the matter of allotment and cancellation of the said Government accommodation, more so when she has been offered a suitable accommodation at Rohini, Delhi. The applicant's wife and relatives of applicant's wife have forcibly occupied the said Government accommodation and have been creating nuisance. The applicant is facing much financial hardship on account of payment of EMI towards loan taken from the bank for purchase of the said flat at Rohini (Delhi) and payment of three times of

the license fee for the Government accommodation at Daman. The respondents ought to have dealt with the applicant's request for cancellation of the said Government accommodation in accordance with rules governing the allotment and cancellation of allotment of Government accommodation and cancelled the allotment and asked the applicant to surrender the said Government accommodation.

6. On the other hand, it has been contended by Ms. Sangeeta Rai, learned counsel appearing for the respondents that the respondent-Department have decided not to cancel the said Government accommodation till the matrimonial dispute between the applicant and his wife is legally sorted out by the court of law. On the facts and in the circumstances of the case, respondent-Department cannot be said to have acted arbitrarily and unreasonably. Therefore, the O.A. is liable to be dismissed.

7. I have carefully considered the materials available on record and the rival contentions of the parties.

8. The respondents have not placed before this Tribunal any material showing any decision to have been taken by the competent authority on the repeated letters submitted by the applicant requesting cancellation of allotment of Quarters No.C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001. The respondents have also not brought to the notice of this Tribunal any rule or instructions issued by the Government/Department laying down that in a case where any matrimonial dispute between the allottee-employee and his wife is pending before court of law, the request made by the allottee -employee for cancellation of allotment of the Government accommodation is not to be decided by the competent authority until finalization of the matrimonial dispute, even if the allottee-employee is transferred from and is not serving at the place where the said Government accommodation was earlier allotted in his favour. In view of the above, and considering the totality of the facts and circumstances of the case, this Tribunal directs respondent nos. 2 and 3 to consider the applicant's request for cancellation of allotment of Quarters No. C-17, 5th Floor, Officers Flats, Police Station Campus, Mandir Marg, New Delhi 110001, in accordance with the rules governing allotment and cancellation of Government accommodation and to take appropriate decision by passing a reasoned and speaking order within a period of three months from today. In the event the applicant feels aggrieved by the decision to be taken by respondent nos. 2 and 3, he is free to approach appropriate judicial forum in accordance with law, if so advised.

9. With the above observation and direction, the O.A. is disposed of. No costs.