

(2013) 05 DEL CK 0267

In the Delhi High Court

Case No : LPA 323 of 2013

Joginder Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 23-05-2013

Acts Referred:

Citation : (2013) 05 DEL CK 0267

Hon'ble Judges : Nuthalapati Venkata Ramana, J; Jayant Nath, J

Bench : Division Bench

Advocate : A.K. Bajpai, for the Appellant; R.V. Sinha and Mr. P.K. Singh, Advocates for UOI, for the Respondent

Final Decision : Dismissed

Judgement

Jayant Nath, J.

CM Nos. 7895-7896/2013 (exemption)

Exemption allowed subject to just exceptions.

LPA 323/2013 and CM Nos. 7894/2013 (stay) and 7897/2013

1. The present appeal seeks to impugn the order dated 06.05.2013. The brief facts leading to the present writ petition is that the appellant has been working as Pump Operator in CPWD. On 03.09.1992, in the course of his employment, he was allotted a Government Quarter No. 24, Lodhi Road Complex. On 26.09.1992 he was allowed to switch the accommodation and in lieu of Quarter No. 24, Lodhi Road Complex, he was allotted Quarter No. 2125, Lodhi Road Complex, Delhi. However, since then it is the contention of the appellant that he and his family have been occupying the quarter and license fee has been paid up to date. It is the contention of the appellant that he is the President of Delhi Unit of CPWD Majdoor Union registered under the Indian Trade Union Act, 1926. He further claims that he was illegally transferred to Ghaziabad which transfer order was ultimately set aside by the Central Administrative Tribunal. Hence the appellant

claims he is being harassed. It is further contended that on 09.01.2007, Directorate of Estate cancelled the allotment in favour of the appellant for the flat in question. Subsequently, the Directorate of Estate initiated proceedings for eviction under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. On 09.03.2007, an eviction order was passed by the Estate Officer in exercise of power under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. An appeal was filed before the learned District Judge. An appropriate interim order was passed by the District Judge. On 16.08.2007, Additional District Judge dismissed the appeal under the Public Premises Act, 1971. Hence, the present writ petition was filed which was dismissed by the learned Single Judge vide impugned order dated 06.05.2013.

2. It is the contention of the appellant that the cancellation of the allotment vide letter dated 09.01.2007 is bad as the same was not received by the appellant. It is further stated that the quarter was allotted to him by CPWD and Directorate of Estate could not cancel the same and that the appellant belongs to essential services staff and is entitled to retain the said accommodation. It is also alleged that fair opportunity of hearing to present his case before Estate Officer was not given.

3. A perusal of the order of the learned ADJ shows that the learned ADJ accepted the findings of fact that the quarter in question was given to CPWD for running an Electrical Enquiry Office in 1981. The then Executive Engineer of CPWD instead of using the said quarter for Electrical Enquiry Office for the residents of Lodhi Road Complex and P.V. Hostel allotted the said quarter for residence to Prithul Kumar, Khallasi. Subsequently the appellant was allotted a quarter by Sh. Charan Das, the then Executive Engineer. It is further noted that the Executive Engineer had conveyed to the Directorate of Estates that as the record is not traceable, the reason as to why the quarter meant for Electrical Enquiry Office was allotted to essential work staff cannot be apprised presently.

4. It is settled law that High Court in exercise of certiorari and supervisory jurisdiction will not convert itself into a court of appeal indulging in re-appreciation or revaluation of evidence. In the light of the findings of fact recorded by the Appellate Court, We see no reason to interfere with the impugned order.

5. Learned counsel for the respondent relies upon a judgment of the Division of this Court in the case of K.R.K. Talwar Vs. Union of India and Others, , where it was held that it is not permissible in the course of judicial review to probe into the reasons for cancellation of the allotment. The submissions of the appellant regarding cancellation of the allotment have to, even otherwise, be rejected. Hence, the appeal and the pending applications are dismissed.