

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2086/2002
MA No.1704/2002

New Delhi this the 17th day of March, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. Shri Ashok Kumar,
S/o Sh. Brahm Singh,
Working as LDC in o/o the
Controller of Accounts,
Internal Audit Wing,
Ministry of Home Affairs,
2/10, Jam Nagar House,
New Delhi-11.
2. Shri Brahm Singh,
Retired as Chief Section Supervisor
from O/o the General Manager,
Central Telegraph Office,
New Delhi. -Applicants

(By Advocate Shri B. Krishan)

-Versus-

1. Union of India, through
the Director of Estates,
Directorate of Estates,
4th Floor 'C' Wing,
Nirman Bhawan, New Delhi.
2. The Chief Superintendent,
Central Telegraph Office,
Department of Telecommunications,
Eastern Court, New Delhi-110 001. -Respondents

(By Advocates Sh. M.M. Sudan and Sh. R.N. Singh)

O R D E R

By Mr. Shanker Raju, Member (J):

Applicants in this OA have impugned respondents' order dated 30.5.2002 whereby his request for regularisation of quarter from general pool has been turned down. He has sought allotment of alternate accommodation of type 'B' from the general pool.

2. Learned counsel for applicants Sh. B. Krishan contended that the request of applicant is well covered under office memo dated 1.5.81 read with office memo dated 9.11.87 issued by the Directorate of Estates, as

contained in the Compendium of Allotment Rules, which permits regularisation of allotment of the government residence in the name of the dependent wards of the retiree officer. Being an employee of the Central Government applicant No.1 is eligible for regularisation of allotment from general pool. As such his request has been arbitrarily and illegally rejected by the Department.

3. On the other hand, respondents' counsel Sh. M.M. Sudan and Sh. R.N. Singh, vehemently opposed the OA on limitation and by referring to the decision of DB in OA-2088/2002 in Madan Mohan Khantwal & Anr. v. Union of India decided on 26.2.2003 it is contended that in view of the decision of the High Court in Smt. Babli and another v. Govt. of NCT of Delhi and others, 95 (2002) Delhi Law Times 144 (DB) a similar claim has been rejected for want of jurisdiction. Accordingly, it is prayed that this court has no jurisdiction to take cognizance of the grievance of applicants.

4. Whereas Shri Krishan placing reliance on a decision of another Division Bench in OA-336/2001 decided on 27.2.2003 in Prabha Srivastava & Anr. v. Union of India and Anr., contended that Court has taken cognizance and as such in view of the divergent opinions between the two Division Benches matter be referred to a larger Bench.

5. I have carefully considered the rival contentions of the parties and perused the material on record. High Court of Delhi in Babli's case (supra) held as follows:

"5. It must be clarified at the very outset that claim to allotment of Government residential accommodation does not become condition of service unless the relevant Service Rules provide so. No such rule was shown or pressed in service in the present case which provided for petitioners entitlement to residential accommodation. The expression "any other matter" occurring in Sub-clause V could not be also interpreted so liberally and loosely as to include any matter whatsoever whether or not it was related to employees service condition. The words "any matter" would be read esjuda generis and in the context of provisions of Rule 3 (Q). Otherwise any contrary interpretation placed on it would lead to absurd results and would make Tribunal a Forum for all matters including private matters of an employee. That indeed cannot be the intent and purpose of this Rule which defines the service matters for purposes of giving jurisdiction to Tribunal. An employee's non-charging of HRA would be inconsequential in this regard and would not convert his claim for residential accommodation to service condition."

6. In Prabha Srivastava's case also the following observations have been made:

"11. Then the learned counsel for the respondents has also referred to a recent judgment reported in 95 (2002) Delhi Law Times 144 (DB) of the Hon'ble Delhi High Court in the case of Smt. Babli and Another Vs. Government of NCT of Delhi and Others, wherein the Hon'ble High Court of Delhi has observed as under:-

" 10. We, accordingly, hold that CAT had no jurisdiction to entertain OAs claiming allotment or regularisation of Government accommodation unless such claim was shown to be a condition of service. Nor could it assume jurisdiction where eviction action was taken against an employee for his alleged unauthorised occupation of the premises under the Eviction Act. These petitions are accordingly dismissed and Tribunal order affirmed".

12. When confronted with the situation the learned counsel for the applicant admitted that there are no rules or the service condition which may make the applicant eligible for ad hoc allotment of accommodation by way of exchange of pool. The applicant has relied only on past precedents whereby the Estate Officer has given ad hoc allotment. But in our view that does not create any right in favour of applicant as it is not part of any service condition. Thus applicant cannot claim regularisation of quarter. In view of the law laid down by the Delhi High Court in Smt. Babli (Supra), the OA has to be dismissed."

7. In my considered view there is no divergent opinions in the two cases cited before me. In latter case of Prabha Srivastava in view of the decision of the High Court in Babli's case (supra) OA has been dismissed. As decision of the Division Bench is binding on me, where it has been held that this court has no jurisdiction and the grievance of the applicant does not come within the purview of service matter, I respectfully follow the same and accordingly dismiss the OA for want of jurisdiction. However, this shall not preclude applicant from raising his grievance in an appropriate forum in accordance with law.

S. Raju

(Shanker Raju)
Member (J)

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