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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA-1007/2002

New Delhi this the 21st day of January, 2003

HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Shri G.B. Gurung (Daftry, AG/Rtg.(CV)
E-82, Moti Bagh-I,
New Delhi-110021.

-Applicant

(None Present)

Versus

Union of India through,

1. Secretary,
Ministry of Defence,
New Delhi.
2. Dy. CAO(FMG),
C-II, Hutments,
Ministry of Defence,
DHQ P.O., New Delhi-11.
3. The Secretary,
Ministry of Urban Development & Poverty
Allivation, Nirman Bhawan,
New Delhi.

-Respondents

(By Advocate: Shri S.M. Arif)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

Shri S.M. Arif, learned counsel of the respondents heard.

2. The applicant is working as Daftry AG/Rtg (CB) in the office of Respondent No.1. He had made an application for obtaining House Building Advance (HBA). Respondents have declined to grant him House Building Advance vide Memo dated 7.11.2001 which has been impugned herein. Applicant has sought direction to the respondents to grant and disburse the HBA for which he had made an application.

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3. Respondents have stated in their counter reply that applicant's case was considered as per provisions of the House Building Advance Rules. As per Rule 5(a) (2) of the HBA Rules, where an advance is required for building a house, an amount equal to 50% of the sanctioned advance is payable to the applicant on his mortgaging the property in question in favour of the Government along with the house to be built thereon and the remaining amount is payable when the construction of the house reaches the plinth level. Provisions of Rule 9(f)(ii) enjoins of the Head of the Department to ensure that mortgage deed is executed and registered and deposited with HOD before drawing the first instalment of advance. It has been pointed out that applicant's land is located in Nepal and as such the house constructed in a foreign country with the help of HBA cannot be mortgaged to the President of India and as such respondents declined to grant the advance to the applicant. The applicant has not filed any rejoinder to the counter reply of the respondents. Learned counsel of the respondents has also shown the relevant records relating to the application of the applicant. We find that the Ministry of External Affairs has informed the respondents that there is no bilateral agreement between the Government of India and Government of Nepal on the issue of mortgage of property of Nationals of either country. We are satisfied that HBA could not be granted to the applicant due to non-enforceability of the relevant provisions. As

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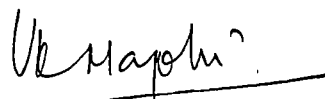
such, we do not find any infirmity in the impugned order.

4. The OA is dismissed being without merit.

No costs.



(Kuldip Singh)
Member (J)



(V. K. Majotra)
Member (A)

cc.