



Central Administrative Tribunal
Principal Bench, New Delhi

OA No.2196/2019

with

OA No.2240/2019

OA No.2103/2019

OA No.2104/2019

Reserved on: 02.03.2020

Pronounced on: 03.03.2020

Hon'ble Ms. Aradhana Johri, Member (A)

OA No.2196/2019

1. Yash Pal (aged about 41 years)
Safai Karamchari (Emp.Code, 309230) Group 'D'
s/o Sh. Babu Lal,
R/o Quarters No.102 (II), Palika Gram,
Laxmi Bai Nagar, Kidwai Nagar (West)
Delhi – 110 023.
2. Rajesh (Aged about 47 years)
Safai Karamchari (Emp.Code, 309332) Group 'D'
s/o Sh. Babu Lal,
R/o Quarter No.171(1), Valmiki Sadan,
Mandir Marg, New Delhi.
3. Ashok Vardhan (Aged about 41 years)
AMG C.No.03 (Emp.Code, 312204) Group 'D'
R/o Quarter No.103(II), Palika Gram,
Sarojini Nagar, New Delhi. ...Applicants

(By Advocate: Sh. A.K. Tripathi)

Versus

The Chairman,
New Delhi Municipal Council,
Palika Kendra,
New Delhi.

...Respondent

(By Advocate: Ms. Sriparna Chatterjee)

OA No.2240/2019

1. Lalit Kumar (Aged about 47 years)
Safai Karamchari (Emp.Code, 308031) Group 'D'
S/o late Sh. Niranjana Lal,
R/o H.No.S-29, Valmiki Sadan (I),
Mandir Marg, New Delhi.

2. Sanjay (Aged about 46 years)
Safai Karamchari (Emp.Code, 309236) Group 'D'
S/o Sh. Mam Chand,
R/o H.No.28, Valmiki Sadan (I),
Mandir Marg, New Delhi.
3. Kailash (Aged about 49 years)
Safai Karamchari (Emp.Code, 307754) Group 'D'
S/o late Sh. Gyaneshwar,
R/o H.No.191, Valmiki Sadan (I),
Mandir Marg, New Delhi.
4. Rajeshwar (Aged about 50 years)
Safai Karamchari (Emp.Code, 307307) Group 'D'
S/o late Sh.Ramesh,
R/o H.No.142, Valmiki Sadan (I),
Mandir Marg, New Delhi.
5. Rakesh (Aged about 47 years)
Safai Karamchari (Emp.Code, 307998) Group 'D'
S/o late Sh. Suraj,
R/o H.No.107, Valmiki Sadan (I),
Mandir Marg, New Delhi. ...Applicants

(By Advocate: Sh. A.K. Tripathi)

Versus

The Chairman,
New Delhi Municipal Council,
Palika Kendra,
New Delhi.

...Respondent

(By Advocate: Ms. Sriparna Chatterjee)

OA No.2103/2019

Sh. Manish Kumar (Aged about 39 years)
Beldar (Emp.Code, 311246) Group 'D'
S/o Sh. Prem Chand,
R/o Quarter No.L0122 (II),
Palika Vas, Saroji Nagar, New Delhi.

...Applicant

(By Advocate: Shri A.K. Tripathi)

Versus

The Chairman,
New Delhi Municipal Council,
Palika Kendra,
New Delhi.

...Respondent

(By Advocate: Ms. Sriparna Chatterjee)

OA No.2104/2019

Sh. Parvesh Kumar (Aged about 44 years)
 Beldar (Emp.Code, 309316) Group 'D'
 S/o Sh. Amar Singh,
 R/o Quarter No.F-3 (II),
 Palika Vas, RK Ashram Marg,
 New Delhi.

...Applicant

(By Advocate: Sh. A.K. Tripathi)

Versus

The Chairman,
 New Delhi Municipal Council,
 Palika Kendra,
 New Delhi.

...Respondent

(By Advocate: Ms. Sriparna Chatterjee)

O R D E R

All these 4 OAs are similar and are, therefore, being disposed off by this common order.

2. The applicants, who are Group-D employees of the respondent organization/New Delhi Municipal Council [hereinafter referred to as 'NDMC'], were allotted quarters under Out of Turn Allotment in the year 2014-15. They have stated that all of sudden, the respondent organization issued order dated 22.05.2019 (Annexure A-1) asking them to apply online for quarters through Unified Waiting List and in case they are not successful then such quarters retained by them shall stand cancelled.

3. The applicants have filed this OA seeking quashing of the said order dated 22.05.2019 and sought that they should not be disturbed from the use, enjoyment and

possession of the quarters that have been allotted to them. They have stated that the quarters they are occupying were duly allotted to them in 2014-15 and have claimed that no illegality or irregularity has been committed by the allotment committee in allotting quarters to the applicants. Therefore, they should be allowed to continue in the quarters where they are residing.

4. The respondents have denied the claims of the applicants. They have stated that the respondent organization/NDMC follows the guidelines of Directorate of Estates, Government of India, and Resolutions passed by the Council from time to time. They have stated that though the applicants were allotted quarters on out of turn basis but later it was found that there were irregularities in these allotments. A Committee was constituted to enquire into the matter pertaining to out of turn allotment. The said Committee submitted its report dated 23.03.2018 (Annexure R-2). It is the contention of the respondents that after a high level enquiry, disciplinary action has been initiated against the charged officials who were responsible for these kinds of allotments. They have reiterated that there was a ceiling of 5% for out of turn allotment and all allotments in excess of this ceiling are irregular. They have also stated that most of the applicants are staying in

quarters which are above their entitled level. They have given a Table regarding the details of allotments made and the status at present, which is reproduced hereunder:-

Sl. No.	Name	Address	Type	Whether Online applied	Online Status	Eligibility
1	Yashpal	Qtr.No.102(II), Palika Gram, LBN, New Delhi	Type II	Applied	Applied in Unified Waiting List, but filled preference not as per his entitlement.	Grade Pay 2000 (as on date), Eligibility of Quarter Type-1
2	Lalit Kumar	Qtr.No.S-29(I), Valmiki Sadan, Mandir Marg, New Delhi.	Type I	Not applied	Not applied in Unified Waiting List	Grade Pay 2000 (as on date), Eligibility of Quarter Type-1
3	Manish Kumar	Qtr. No.C-41(II), Palika Kunj, Kirbala	Type II	Applied	Applied in Unified Waiting List, but did not get as per the seniority.	Grade Pay 3100 (as on date), Eligibility of Quarter Type-II
4	Parvesh Kumar	Qtr. No.F-3(II), Palika Avas, R.K. Ashram Marg, New Delhi.	Type II	Applied	Applied in Unified Waiting List, but did not get as per the seniority.	Grade Pay 2400 (as on date), Eligibility of Quarter Type-II
5	Sanjay	Qtr. No.28(I), Valmiki Sadan	Type I	Not applied	Not applied in Unified Waiting List.	Type-I
6	Kailash	Qtr. No.191(I), Valmiki Sadan	Type I	Not applied	Not applied in Unified Waiting List.	Type-I
7	Rajeshwar	Qtr. No.142 (I), Valmiki Sadan	Type I	Not applied	Not applied in Unified Waiting List.	Type-I
8	Rakesh	Qtr. No.107 (I), Valmiki Sadan	Type I	Not applied	Not applied in Unified Waiting List.	Type-I
9	Ashok	Qtr. No.103(II), Palika Gram, LB Nagar	Type II	Applied	Applied in Unified Waiting list, but filled preference not as per his entitlement.	Type-I
10	Rajesh	Qtr. No.171(I), Valmiki Sadan	Type I	Not applied	Not applied in Unified Waiting list.	Type-I

5. The respondents have further submitted that the applicants were wrongly allotted quarters in 2014-15 on out of turn basis, beyond the ceiling of 5% and there is no provision for regularizing these quarters. However, the applicants were permitted to apply online through Unified

Waiting List. All the applicants have not chosen to apply at all or applied for quarters for which they were not entitled just with the intention of lingering on the proceedings so that they can continue to reside illegally in the quarters wrongly allotted to them. As per the respondents, this has deprived senior employees of their right to allotment of government quarters, who should get priority in allotment of quarters on seniority basis as per rules and guidelines.

6. Heard Shri A.K. Tripathi, learned counsel for the applicants and Mrs. Sriparna Chatterjee, learned counsel for the respondents.

7. A perusal of the Report of the Committee reveals that there have been out of turn allotments on a large scale which is far beyond the ceiling of 5%. A table, as indicated in the Report, is as follows:-

Sl. No.	Allotment in year 2014	Type-I	Type-II	Type-III	Type-IV	Type-V	Total
1	Total	172	114	39	27	5	357
2	Regular	159	86	20	23	3	291
3	Out of Turn	13	28	19	4	2	66
4	% of out of turn w.e.f. total allotment	7.55	24.56	48.71	14.81	40	18.48%

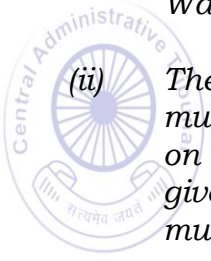
8. It was also mentioned in the Committee Report that in several cases the approval of the Competent Authority was also not taken. Apart from this, several other irregularities

have been pointed out in the Report, which are violative of rules and guidelines. The Committee has also recommended administrative disciplinary action against erring officials specifically by name. It has further recommended that a major penalty proceeding should also be initiated against the erring officials. The Committee has pointed out that the role of the beneficiaries in procuring these kinds of allotment letters on Out of Turn Allotment basis could not be ruled out. They have also reiterated that there is no provision for regularizing these cases as the outer ceiling of 5% is sacrosanct and cannot be violated in any circumstances.

9. It is clear that irregularities have been committed in allotment of quarters on out of turn basis to the applicants along with others. In this context, the respondent organization/NDMC issued letter dated 22.05.2019 (Annexure A-1) which contained instructions on how out of turn allotments are to be dealt with keeping in mind with the policy of the respondent organization. The methodology for allotment of these quarters, as given in the said order, is as under:-

- “(i) *the municipal quarters (list of such municipal quarters is at Annexure I & II) be allotted **online** through Unified Waiting List **on vacation** basis. The employees, to whom such municipal quarters (list of such municipal quarters is at Annexure I & II) have been allotted, may participate in online bid for allotment of such municipal quarters along*

with other municipal employees in Unified Waiting List.

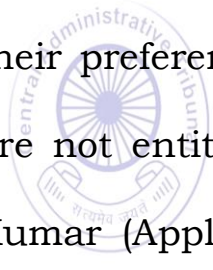


(ii) *The allotment of municipal quarters (list of such municipal quarters is at Annexure I & II) will be on vacation basis and the occupation will be given as and it is vacated by the occupant of such municipal quarter.*

(iii) *In case, the employees, to whom such municipal quarters (list of such municipal quarters is at Annexure I & II), will not be successful to retain such municipal quarters on the basis of his seniority in Unified Waiting List, then allotment of such municipal quarters will be cancelled by Municipal Housing Department.*

(iv) *All the municipal employees (whose names are mentioned in the list of such municipal quarters is at Annexure I & II) or any other eligible municipal employee (whose name is not there in the Unified Waiting List) are requested to apply, if wishes to, in the e-Awas System, NDMC within 7 days from the date of issue of this letter for registration under Unified Waiting List.”*

10. It is clear from a perusal of the above steps that no discrimination whatsoever has taken place against the applicants or any person, and a policy has been laid down for all such allottees. Every organization has to function under rules and regulations and anyone who obtains any benefit against the rules and regulations does not automatically get conferred any rights simply because these benefits were conferred some years back. This also appears to be a very major matter wherein wrongdoing has been done on a large scale which cannot be condoned. Disciplinary action has also been initiated against the alleged wrongdoers by the respondent organization. From the status note filed by the respondents, it emerges that



most of the applicants have either not applied at all or filled their preferences for categories of quarters for which they are not entitled. Only two applicants, namely, Sh. Manish Kumar (Applicant in OA No.2103/2019) and Sh. Parvesh Kumar (Applicant in OA No.2104/2019), have applied in the Unified Waiting List who did not get allotment since there were seniors above them who applied for the same quarters. As has been stated by the respondents that there were several quarters available, the applicants were free to apply for other quarters. Since many of the applicants have not applied at all, it is clear that they are trying to delay the matter to continue staying in the quarters they have been allotted. This sort of delay will go to the account of the applicants and not of the respondents.

11. The respondents have also filed the policy of Directorate of Estate, Ministry of Urban Development, regarding allotment of pooled houses (Annexure R-1). These guidelines for allotment of quarters were perused. It is clearly visible from these guidelines that priority allotment/out of turn allotment is restricted to overall ceiling of 5% and grounds for such allotments are also clearly specified therein.

12. For the above reasons, I am of the view that there is no illegality or irregularity in the impugned order dated

22.05.2019 (Annexure A-1). I find no merit in these OAs and the same are accordingly dismissed. There shall be no order as to costs.

13. The Registry is directed to place a copy of this order in each of the connected OAs.

(Aradhana Johri)
Member (A)

/AhujA/