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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1902/2001

MA No.1590/2001

New Delhi this the 4th day of January, 2002.

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

1. Manoj Kumar Sharma
S/o Shri A.K. Sharma,
R/o HC-12, PS Tilak Marg Complex,
New Delhi.
 2. Meera Sharma,
W/o Shri Manoj Kumar Sharma,
R/o HC-12, PS Tilak Marg Complex,
New Delhi.
- Applicants

(By Advocate Shri Naresh Kaushik with Ms. Shilpa Chohan)

-Versus-

1. Govt. of NCT of Delhi through
its Secretary, 5, Shamnath Marg,
Delhi-110054.
 2. The Commissioner of Police, Delhi
Police Headquarters,
I.P. Estate,
New Delhi.
 3. The Deputy Commissioner of Police,
Police Headquarters (I), Delhi
Police Headquarters, I.P. Estate,
New Delhi.
 4. W/HC Rekha (No.962 Communication),
D/o late Shri J.N. Kaul,
aged about 40 years,
R/o K-3/2, Type-I,
Andrews Ganj,
New Delhi.
- Respondents

(By Advocates Shri Ram Kanwar (R1-3) and Shri B.B. Raval
(R-4))

O R D E R (ORAL)

MA No.1590/2001 for joining together is allowed.

The applicants have assailed an order passed by the Allotment Officer, whereby the quarter bearing No.A-1, Type-II, Tilak Marg has been allotted to one Woman Head Constable Ms. Rekha, respondent No.4 herein and have sought quashing of this order and allotment of this quarter to them.

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2. Briefly stated, the applicants have been residing at quarter No.HC-12, PS Tilak Marg Complex, New Delhi. Their relatives are staying opposite to this accommodation. Quarter No.A-1 was to fall vacant in May, 2000. The aforesaid quarter was allotted to respondent No.4, who was previously allotted a quarter at Andrews Ganj and as per the applicants she had never stayed in the said quarter, which debars her for allotting another quarter as per para XII (III) of Standing Order No.3 of Police Headquarters as well as cancellation of her earlier accommodation at Andrews Ganj. In this regard a DD entry recorded vide No.57/B dated 11.7.2001 at PS Defence Colony is relied upon to demonstrate that the quarter at Andrews Ganj belonging to respondent No.4 has been locked for many years. The applicants contend that this accommodation has been allotted to respondent No.4 without her due seniority and another accommodation was allotted at HC-8, Type II P.S. Tilak Marg even while its occupant had to retire three years after. According to the applicant he made a representation to the competent authority showing his reasonable grounds to be allotted A-1, P.S. Tilak Marg on 15.6.2001, which was forwarded and the DCP (Allotment Officer) after 15.6.2001 changed the allotment of the applicants to A-1 on vacation. The learned counsel for the applicants contended that respondent No.4 by using her influence on allotment authority managed to get the accommodation allotted and thereafter change without making an appropriate application, which is envisaged under clause (XII) (IV) of the Standing Order No.3/98 ibid where a Government servant seeking change of same type has to move an application under Appendix II and then his/her name is to be kept in waiting list and the change is to be offered in the order of seniority. It is also stated that the

applicants being senior to respondent No.4 are entitled for being allotted Government accommodation at A-1 P.S. Tilak Marg. According to the applicants rules do not envisage second allotment. As respondent No.4 has not made any application, the allotment is contrary to the rules, which are statutory in nature. In case of any relaxation, it is only the Commissioner of Police who has to make appropriate order. In this backdrop, it is stated that the authorities have acted arbitrarily in allotting the Government accommodation and despite the fact that the original accommodation of respondent No.4 was vacant, yet despite being debarred for allotment she has been allotted an accommodation which was illegally changed, shows the illegalities committed by the official respondents to favour her, which cannot be countenanced, as arbitrary and liable to be set aside.

3. The official respondents in their reply contended that the application made by the applicants on 15.6.2001 for change of quarter No. HC-12 to A-1 P.S. Tilak Marg was put up before the Allotment Authority on 15.5.2001 for consideration. As the accommodation had already been allotted to respondent No.4 and after knowing the position the request of the applicants was turned down on 2.7.2001. On 24.6.2001 when the applicants appeared before the Allotment Officer they did not intimate the factual position regarding allotment of accommodation to respondent No.4. On 31.7.2001, quarter No.A-1 was vacated and an occupation slip was issued to respondent No.4, but, as the Tribunal has stayed the matter on 31.7.2001 possession could not be taken by respondent No.4. According to them she was allotted quarter No. HC-8, Type-II P.S. Tilak Marg on 6.4.2000, but as the same was

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not vacated she was allotted another quarter on having appeared before the DCP as per her seniority and under the rules. At that time, there was no request made by the applicants for change of accommodation as such their case could not be considered as per the rules. The applicants have not applied for change of accommodation in January, 2001 and the ground that this quarter may be allotted to them because the relatives living nearby have to look after the children are not relevant. It is also stated that the quarter was changed to A-1 by the Allotment Officer and after hearing the grievance of respondent No.4 and HRA is being deducted from her salary from the date of allotment of the accommodation at PS Andrews Ganj. The said quarter was allotted to her in the year 1993. It is also stated that as the applicant No.1 has been working as PA to Joint CP/SR, he has used his influence to get recorded DD entry No.57/B dated 11.7.2001 at PS Defence Colony, New Delhi. In this backdrop it is stated that during personal hearing on 21.6.2001 the Allotment Authority on application of the applicants allowed the change on vacation but as the factual position of allotment of this accommodation to respondent No.4 one year before has not been brought to the notice, the matter has been reviewed.

4. Respondent No.4 has also filed the counter reply wherein it is contended that being a single parent and shouldering the responsibilities of her seven year old daughter who is studying in Presentation School and was earlier allotted accommodation at Andrews Ganj where she stayed, she made a request to the concerned authority to allot her accommodation on compassionate grounds near her work place and accordingly the Allotment Officer allowed allotment on compassionate grounds at quarter No.HC-8,

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Type-II, PS Tilak Marg, but as the same was to be vacated after three years the applicants put her grievances before the competent authority on 19.6.2000 she has been allotted quarter No.A-1. It is also stated that In OA-1175/2000 one Inspector Raj Kumar challenged the allotment of the same accommodation which has been rejected by this Court on 19.12.2000. The applicant was also issued an occupation slip but as the stay was operating she could not take possession of the Government accommodation. It is also stated that the applicants should apply for the appropriate category as they are entitled for type IV accommodation as per rules and, therefore, cannot be allowed to apply for two types below their entitlement. It is also stated that on 15.6.2000 when she was allotted Government accommodation there was no request for change of accommodation by the applicants and as such their case could not have been considered in accordance with the rules. The request was made after one year and by using influence the Joint Commissioner made certain recommendation which has been allowed by the Allotment Officer in ignorance of the orders passed on 15.6.2000 but the same was reviewed and the mistake was rectified and as such the same would not bestow any right on the applicants to seek allotment of accommodation which has already been allotted to respondent No.4 on 15.6.2000. As far as DD entry is concerned, the same is refuted on the ground that by using the influence and being senior in rank the applicants managed to record this DD entry, which is absolutely incorrect and has not been proved to be genuine. Lastly, it is contended that allotment to respondent No.4 is in accordance with the rules and the applicants have no legal claim to be allotted the same. By annexing rough sketch of quarter it is

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contended that quarter No.HC-12 is situated across the road to A-1 and merely because the prestige is involved the applicants have filed this case.

5. I have carefully considered the rival contentions of the parties and perused the material on record. In my considered view the claim of the applicants is not legally sustainable. Respondent No.4 who was allotted accommodation at Andrews Ganj has made a request on compassionate grounds for change of allotment of another accommodation keeping in view the mitigating circumstances, including the fact that she was living alone with her daughter who was studying quite far from the place of earlier accommodation. The same was acceded to by the Allotment Officer and she was allotted accommodation No.HC-12/II at Tilak Marg. However, when it was transpired that the accommodation which has been allotted to respondent No.4 is not going to be vacated for four years she presented her grievance for change of the same before the competent authority, who after according her a personal hearing allotted her quarter No.A-1 ibid by an order dated 19.6.2000 by revoking the earlier order. There is no illegality in the procedure adopted and the same is in consonance with the Standing Order No.3 of 1998. The change has been applied on the ground that the quarter which has been allotted was on vacation. In this view of the matter the applicants who have made a request for change of accommodation from Andrews Ganj nearer to the school of her daughter was in accordance with the rules. As regards the contention of the applicants that in view of DD entry No.57/B respondent No.4 has not been residing at Andrews Ganj is concerned, merely on the basis of the DD entry which has been an outcome of the influence of the

applicants being attached with the Joint Commissioner of Police and without any further evidence cannot be countenanced. As such, the applicants have miserably failed to show that R-4 was not residing in Government quarter earlier allotted to her which would have entailed cancellation of accommodation and debars her from being considered for allotment of another accommodation. The competent authority, i.e., Allotment Officer has not found any violation of the rules, as such this contention of the applicant does not hold any water.

6. Regarding the order passed by the DCP on the application of applicants made on 15.6.2001 we find that this has been made after one year from the date respondent No.4 was allotted an accommodation which was changed subsequently. There is nothing on record to show that in the request of the applicants in writing for change of residence has been pending with the Allotment Officer which is envisaged under the Standing Order No.3 ibid. Being PA to Joint Commissioner the application for change of residence has been recommended which is not in accordance with the rules and shows favouritism by the Joint Commissioner of Police. The Allotment Officer inadvertently and unmindful of the fact that the accommodation at A-1 ibid has already been allotted to the respondent No.4 allowed the change of vacation. Subsequently the Allotment Officer realising his mistake and the fact that during OR of the applicants on 21.6.2001 factual position has not been apprised to the Deputy Commissioner of Police (HQ) the earlier decision taken on the applicants' application has been reviewed and their request for change has been rejected. Merely because the applicants require lookafter of their children by relatives

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residing nearby would not be sufficient and relevant factor to change the accommodation. It appears that the applicants have not assailed this order not on any pressing grounds but on a prestige issue, which cannot be countenanced. The request of the applicants for change of accommodation was not before the competent authority on 15.6.2000, as such the request of respondent No.4, which has been there for change of allotment, has been rightly acted upon by the competent authority, which cannot be found fault with. Having failed to establish any illegality or discrepancies in the order passed by the respondents the allotment of Government accommodation to respondent No.4 is in consonance with the Standing Order No.3/98 and the order passed is legally sustainable.

7. In the result and having regard to the reasons recorded above I do not find any merit in the present OA. The same is accordingly dismissed, but without any order as to costs. The interim order passed on 31.7.2001 is vacated.

S. Raju
(Shanker Raju)
Member (J)

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