

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 336 of 2001

New Delhi, this the 27<sup>th</sup> day of February, 2003.

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HON'BLE MR. V.K. MAJOTRA, MEMBER (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

1. Smt Prabha Srivastava  
W/o Shri T.S. Srivastava  
R/o Flat No. 2125, Type-IV,  
Delhi Administration Flats,  
Gulabi Bagh,  
Delhi.

Working as Assistant Education Officer,  
Central Hindi Directorate,  
(Ministry of HRD)  
Sector-1, R.K. Puram,  
New Delhi-110 066.

2. Shri T.S. Srivastava  
S/o Shri (Late) G.D. Srivastava  
R/o Flat No. 2125, Type-IV,  
Delhi Administration Flats,  
Gulabi Bagh,  
Delhi-110 007.

Retired as Principal,  
G.B.S.S. School,  
No. 2, Shakti Nagar,  
Delhi-110 007.

-APPLICANTS

(By Advocate: Shri B. Krishan with Ms. Samita Shankar,  
Counsel)

Versus

1. Union of India Through the  
Director of Estates,  
Directorate of Estates,  
Nirman Bhawan,  
New Delhi.

2. The Secretary,  
Land and Building Department,  
Vikas Bhawan,  
New Delhi.

-RESPONDENTS

(By Advocate: Shri S.M. Arif, Counsel for respondent  
No. 1)

Shri Ajay Gupta, Counsel for respondent  
No. 2)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant in this OA has sought directions

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2] to be issued to the respondents to regularise the allotment of quarter No.2125, Type-IV, Delhi Administration Flats, Gulabi Bagh in the name of the first applicant from the date of cancellation of allotment in the name of the second applicant.

2. The facts in brief are that the applicant No.1 is the wife of applicant No.2. Applicant No.2 was working as a Principal in Government Boys Senior Secondary School, No.2, Shakti Nagar,, Delhi and has been allotted quarter No.2125, Type-IV, Delhi Administration Flats, Gulabi Bagh, Delhi during the course of employment with Delhi Administration. Applicant No.2 has since retired from service. Applicant No.1 is working as Assistant Education Officer in the Central Hindi Directorate, Ministry of HRD under the Union Government. Applicant No.1 is also entitled for Type-IV accommodation as per rules and it has been so certified vide Annexure A-4 by the Central Hindi Directorate but applicant No.1 is entitled to allotment of accommodation from general pool of Central Government maintained by Directorate of Estates.

3. The applicant No.1 has also submitted an application to the Directorate of Estates for regularisation of allotment of the quarter in question in the name of applicant No.1. Applicant No.2 has also submitted a letter to Secretary (Land & Building), Delhi Administration for allotting the flat in his wife's name. The applicant No.1 has also made a request for inter-pool exchange of quarter as has been done in various cases by

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the Department. However, her request has not been considered but the quarter has been cancelled. Even the proceedings under the P.P. Act has been initiated against the applicant No.2.

4. The OA is being contested by both the respondents.

5. Respondent No.2 in their reply has submitted that action has been taken against the applicant No.2 for eviction. It is also stated that the applicant No.1 has to apply for regularisation of flat within 2 months after superannuation, which has not been done in the prescribed period, therefore, it is not possible to regularise the quarter in the name of the wife (applicant No.1) of applicant No.2.

6. It is further submitted that she is not an employee of Government of NCT of Delhi so on that account also it is not possible to regularise the flat in her wife's name so the Government of NCT of Delhi simply stated that since the applicant No.1 is not working with the Delhi Government so she (applicant No.1) is not entitled for allotment of a flat.

7. The respondents (Union of India) has also submitted that the application of applicant No.1 for regularisation of quarter by change of inter-pool has been rightly rejected by the answering respondents.

8. We have heard the learned counsel for the parties and gone through the records of the case.

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9. Shri B. Krishan appearing for the applicants submitted that the respondents - Union of India have allowed inter-pool change in so many cases and even there are various judicial pronouncements vide which the respondents have been directed to consider the regularisation of allotment by resorting to the inter-pool exchange and on this aspect he has also referred to various judgments which we need not refer.

10. In reply to this, the learned counsel for the respondents - Union of India admitted that in the past various change of inter-pool have been allowed but under the directions of the court. However, it is submitted that even there is no rule or regulation under which the applicant has a right to ask for inter change of pool. The counsel for the respondents then also referred to a judgment given in CWP No.4839/96 and CM No.8345/97 wherein the Hon'ble Delhi High Court has observed as under:-

"I fail to see as to how it is not applicable. Since at the time of the retirement of the father of the petitioner he was not an allottee of General Pool accommodation, the petitioner would not be eligible for allotment on ad hoc basis of accommodation in General Pool. The writ petition is dismissed in limine".

11. A 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:-

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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 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. *R*

13. In view of the above, OA has no merit and the same is dismissed. No costs.

*Kuldip Singh*  
( KULDIP SINGH )  
MEMBER (JUDL)

*V.K. Majotra*  
(V. K. MAJOTRA)  
MEMBER (A)

Rakesh