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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1269/1998

New Delhi, this 1st day of November, 1999

Hon'ble Shri S.P. Biswas, Member(A)

1. L.R. Dahiya
2. Satyabir Singh
both r/o Qr.No.38, Type III
Timarpur, Delhi-110 054 .. Applicants

(By Shri S.K. Gupta, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi

2. Director of Estates
Nirman Bhavan, New Delhi

3. Commissioner of Police
Police Headquarters
New Delhi .. Respondents

(By Shri Gajendra Giri, Advocate for R-1 & R-2)
Shri Raj Singh, Advocate for R-3)

ORDER

Both the applicants are aggrieved by order dated 22.1.98 (A-1) issued by R-2 rejecting the request of applicant No.1 for regularisation of quarter in the name of applicant No.2. Consequently, applicants have prayed for quashing the impugned letter dated 22.1.98 and issuance of directions to the respondents to allot alternative type II accommodation in the name of applicant No.2 and also allow the applicants to retain the present accommodation (type III/Timarpur) till disposal of their representation.

2. Brief facts of the case are that the applicant No.1 retired from the post of Office Superintendent (Grade I) from the office of NCC Directorate/Delhi with effect

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from 1.11.97. Applicant No.2, who is son of applicant No.1, is working as Constable under R-3 i.e. Commissioner of Police with effect from 1993. While in service, applicant No.1 was allotted type III accommodation (Qr.No.38) in Timarpur area by R-2 (Directorate of Estates). The said quarter was occupied by applicant No.1 on 6.9.91. Applicant No.2 started residing with his father in the above mentioned quarter allotted to the latter and he did not draw HRA/CHRA from the office of R-3 and he also surrendered a sum of Rs.14,405 drawn by him earlier. After superannuation of applicant No.1 with effect from 1.11.97, he was supposed to vacate the quarter by 28.2.98 but he took extension for retention of the quarter upto 30.6.98 as per rules on the subject. On 21.11.97, applicant No.1 submitted a representation to R-2 alongwith proforma duly filled up through proper channel and requested for regularisation of the aforesaid quarter in the name of applicant No.2. The details are at A-3 in the paper book. R-2 however did not accede to the request of applicant No.1 on grounds that the request for regularisation was not covered under the rules. It is the case of the applicants that when the father of an employee under Delhi Police was residing in a quarter then the same could be regularised in the name of his son/daughter/ward if he/she is an employee of the Central Government. Applicant has cited several examples as are available at page 5-6 of the paper book where similar requests have been acceded to. Applicant would also support his case on the plea that the concession he has prayed for is not available to the employees of ICMR, CAR, CSIR, CRRI and CBI&P whereas

such facilities are available to the staff of Delhi Police and also he is entitled for alternative accommodation of one type below as per para 7 of A-4 instructions issued by the Government of India.

3. In support of their claims, applicants would contend that a number of quarters are given to the office of R-3 by R-2 and the former is paying lump sum amount for these quarters without charging any licence fee from its staff and if the situation demands quarters surrendered by Delhi Police be allotted by R-2. How such mutual exchanges have been allowed to facilitate similar claims have been elaborated by the applicant in para 5(D).

4. Respondents have argued to say that the OA is not maintainable since applicant No.2 is not eligible for allotment under general pool, being employee of Delhi Police and that too being non-gazetted staff of Delhi Police who are not eligible for residential accommodation from GOI. Respondents have also submitted that for regularisation one should have satisfied 3 years sharing condition which applicant No.2 has not been able to establish. Mere fact that applicant No.2 did not draw HRA is no guarantee for allotment from the general pool. This is particularly so when the officials like Constables of Delhi Police are not eligible for allotment of quarter whatsoever from the general pool. As per existing instructions, officials of Delhi Police from the rank of ACP onwards are only eligible for accommodation from general pool. Instructions issued vide OM dated 1.5.81 stipulate that ward of general pool allottee shall be eligible for

government accommodation from the general pool when the wards are central Government employee and the father was allotted quarter from general pool, but when the ward is eligible for quarter from Delhi Police, general pool accommodation cannot be regularised or an ad hoc allotment can not be sanctioned. Similarly, when the father is having quarter from a pool other than general pool, no ad hoc allotment can be given. The examples given by the applicant do not come to his help. For example, Shri Balbir Singh, Inspector, Delhi Police was allotted Type III quarter from Delhi Police pool. His son (Harminder Singh) was employed in the office and hence he was eligible for general pool accommodation and hence he was allotted the same quarter by exchanging the quarter from Delhi Police on the basis of inter-pool change. Respondents would also submit that provisions under A-4 are not applicable in this case.

5. To summarise, respondents' stand is that concession of regularisation of the same accommodation or sanction of alternative entitled accommodation is available only when the allottee is holding accommodation from the general pool and the ward is also eligible for accommodation from the same pool.

6. We have heard the learned counsel for both parties. Provisions of the rules that would govern allotment in such cases are available in FR 317B. As per the orders issued by the Ministry of Works & Housing vide OM No. 12035 dated 1.5.81 and OM No.12035(14)/82-Pol II(Vol.II) dated 19.11.87 when a government servant in occupation of government residence (general pool) retires from

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service, his/her son, unmarried daughter, wife or husband, as the case may be, could be considered for allotment of government quarter on ad hoc basis subject to the conditions mentioned therein. One of the most important conditions is that the dependant/relation should be a government servant eligible for allotment of general pool accommodation. Applicant has not been able to establish that he is eligible for direct allotment from general pool.

7. In the light of the legal position, we do not find any merit in the OA and the same is dismissed accordingly. Our orders, however, will not stand in the way of R-3 to offer alternative or appropriate type of accommodation to applicant No.2 on ad hoc basis, if they are so advised.

8. The OA is disposed of as above but without any order as to costs.


(S.P. Biswas)
Member(A)

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