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Central Administrative Tribunal, Principal Bench

O.A. No. 1843 of 1998

New Delhi this the 1st Nov day of November, 1999

Hon'ble Shri Kuldip Singh, Member (J)

1. Shri Anil Kumar S/o Shri Kishan Swaroop
R/o 627 Sector-VI R.K. Puram,
New Delhi-66.
2. Shri Kishan Swaroop S/o Late Shri Asha Ram
R/o 627, Sector VI, R.K. Puram,
New Delhi-66. ...Applicants

By Advocate Shri B. Krishan.

Versus

1. Union of India through
the Director of Estates,
Directorate of Estates,
4th Floor, 'C' Wing,
Nirman Bhavan,
New Delhi.
2. The Chief Superintendent,
Central Telegraph Office,
Department of Telecommunications,
New Delhi-1. ...Respondents

By Advocate Shri S.M. Arif.

ORDER

In this OA the applicant No.1 has challenged a letter dated 29.5.98 issued by the Directorate of Estates whereby his request for regularisation of allotment of Quarter No.627, Sector-VI, R.K. Puram, New Delhi where he is presently residing with his father, applicant No.2, has been rejected as the respondents had not permitted the exchange of pool between two units. The said letter is Annexure A-1.

2. The brief facts of the case are that the applicant No.1 is the son of applicant No.2. Both are in possession and use of accommodation which is in question. Initially the allotment was made in the name of applicant No.2 by the Directorate of Estates when he was working under respondent No.2, who has since retired and his allotment had

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been cancelled. So it is pleaded that applicant No.1, who is also in Central Government service and has been sharing the said Government residence with his father since December, 1994 and had not been drawing any House Rent Allowance, is entitled to the same accommodation because it is also of the same type for which the applicant No.1 is eligible. So applicant No.1 prays that the accommodation allotted to his father (applicant No.2), may be regularised in his name.

3. The respondents had rejected the request of applicant No.1 on the sole ground that the accommodation in question is not of general pool accommodation rather it is of MTNL pool.

4. Respondents who have filed the counter-affdavit submitted that the applicant No.1 is eligible for allotment of general pool accommodation provided he fulfils all other conditions. They further pleaded that merely not drawing HRA while sharing the accommodation with his father does not automatically make the person eligible for Government quarter.

5. As regards the inter pool exchange of quarter is concerned, the same is not applicable in the case of retirement/death etc. The real intention of inter pool exchange is when an officer from Central Government is transferred to the organisation which has got its own pool and an officer of such organisation is posted to Central Government eligible for general pool accommodation and is having a particular pool quarter, it is only in those cases exchange of pool is permitted. However, the respondents admitted having regularised a quarter under the Safdarjung

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Pool and the same was done in the case of Sanjeev Joshi (OA 1257/96). However, it is stated that in this case inter pool exchange is not applicable.

6. I have heard the learned counsel for the parties and have perused the records.

7. The learned counsel for the applicant has relied on various judgments wherein similar inter pool exchange was allowed by this Tribunal and that too in similar circumstances where a son who was working in a different organisation was residing with his father who was working in a different organisation and eligible for allotment from their respective pool accommodations. In those cases inter pool exchange has been permitted and the directions were passed to the respondents to regularise those accommodations. One such case is of Dinesh Kumar Sharma - O.A. No. 818 of 1996. He was working in the Central Administrative Tribunal, Principal Bench and his father was working in the Directorate of Economics and Statistics, Government of NCT Delhi. Son was eligible from general pool accommodation and the father was eligible for Government accommodation under the NCT pool. In this case Tribunal vide order dated 20.2.98 directed the respondent No.1 to consider the question of inter pool exchange of house allotted to applicant No.2 and to decide the request of the applicant for regularisation in favour of applicant No.1. Similarly in case of Sanjeev Joshi - OA No. 1257 of 1996 who was working as Lab. Technician in Cabinet Secretariat, S.S.B. Directorate and whose father was working as Lab. Technician in the Safdarjung Hospital. In that case the Directorate of Estates had taken an objection of inter pool exchange being not permissible. But there also the

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directions were given to the Director, the Directorate of Estates, respondent No.2 and the Medical Superintendent, Safdarjung Hospital, respondent No.3 to consider the question of inter pool exchange of the house allotted to applicant's father and then decide the same within a period of 4 months and till that time applicant No.1 shall not be evicted. Similarly, there is another case of Suresh Kumar and Another Vs. U.O.I. & Others - OA 2610/97 and that too of Safdarjung Hospital wherein also similar directions were given.

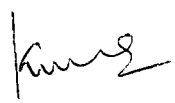
8. There is yet another case of Arun Sharma and Another Vs. U.O.I. & Others - OA 1905/97 wherein also the father and son were working in different organisations and were eligible for allotment from different pools, one from Delhi Administration pool and one from Directorate of Estates. There also the O.A. was allowed.

9. Considering all these judgments, I also find that since all other conditions regarding not drawing of HRA etc. are being fulfilled by the applicant, so in this case also the applicant is entitled to be considered for regularisation of the accommodation which he has been occupying along with his father for being regularised in his name. I may further mention that it is a common knowledge that in Delhi there is scarcity of accommodation and a Government servant has to face a lot of difficulties if he is unsettled from a place and is made to run to find out accommodation in private market. In this case since the applicant has all the qualifying conditions for allotment of an accommodation so merely a technical snag of inter pool accommodation

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should not be allowed to come in the way of regularisation of the accommodation which the applicant No.1 is already occupying along with his father, who is applicant No.2.

10. In view of the above, I direct Respondents No.1 and 2 in consultation of each other to consider the question of inter pool exchange of house allotted to applicant No.2 and decide the request of applicant No.1. This will be done within a period of 4 months from the date of receipt of a copy of this order. Till such time the decision is taken, the applicants will not be evicted from the quarter in question. This will be, however, without prejudice to the right of the respondents to claim normal rent as per rules.


(Kuldip Singh)
Member (J)

Rakesh