

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.293/98

(2)

Hon'ble Sh. R.K. Aahooja, Member (A)

New Delhi, this the 6th day of February, 1998

Sh.S. Subhash Kumar
S/o.Sh.P.K. Shankara Narayanan
R/o.I-56, Sadiq Nagar,
New Delhi.

APPLICANT

(By Sh.V. Shekhar, Advocate)

Versus

1. Union of India,
Through Directorate of Estate
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

RESPONDENTS

O R D E R (Oral)

The applicant was allotted accommodation No.1/56, Sadiq Nagar, New Delhi by an order dated 4.5.92 Annexure-A II. The category of the house allotted to him was above his entitlement. Subsequent to Supreme Court orders in Shiv Sagar Tiwari's case in CWP No.585/94 the Directorate of Estates issued the letter Annexure-A5 dated 23.12.97 offering him T-II accommodation in lieu of his present quarter. The applicant has come before the Tribunal seeking a direction that the aforesaid letter may be withdrawn as well as the letter dated 12.1.98 Annexure-A7 by which he has been threatened that action would be taken for his eviction from the present accommodation if he does not vacate it.

2. I have heard the learned counsel for the applicant at the admission stage. He has argued vehemently that the case of the applicant is distinguishable from other cases affected by the Supreme Court direction in Shiv Sagar Tiwari (Supra), since the conditions under which the allotment was made to be applicant were entirely different. He has drawn my attention to the O.M dated 1.8.91 issued by the Directorate of Estates Annexure-3 on the subject of recovery of licence fee from those who are allotted

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houses in the higher than entitled category. It is stated therein that in such a case the allottee would be charged three times the normal rent. The condition on which the allotment was made to the applicant was also similar in as much as it was subject to payment of licence fee at three times the normal rate. The learned counsel submits that the applicant has always paid the higher licence fee. In these circumstances the allotment of the house could not be considered to be an out of turn allotment on discretionary basis.

3. I have considerd the matter. It appears to me that if the argument advanced by the learned counsel is accepted it would imply that any Government servant who wants a higher than entitled category can claim it merely by offering to pay the enhanced normal fee at three times the normal rate. The allotment of a house in a category higher than the one to which a Government servant would be entitled involves a relaxation of the rules by the allotting authority even though a provision may exist for the exercise of discretionary power by the Government. The orders of the Supreme Court in Shiv Sagar Tiwari (Supra) are directed precisely towards delineating the limits of this discretionary power. I do not find that the applicant can claim that the allotment of the house to him in the circumstances was not an out of turn allotment. In my view therefore the applicant does not have even a *prima-facie* case. Accordingly, the O.A is dismissed at the admission stage itself. No costs.

R. K. Ahuja
(R. K. AHOOJA)
MEMBER (A)

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