

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1375/95

New Delhi this the 9th day of February 1996

Hon'ble Shri B.C.Saksena, Vice-Chairman (J)

Hon'ble Shri K.Muthukumar, Member (A)

Smt. Sushma Verma
Wife of Shri O.P.Verma
working as a Physical Education Teacher,
in Govt. Co-Education Sr. Secondary School,
President's Estate, New Delhi and residing at
6/677, Lodi Colony, New Delhi

(Advocate: Shri B.Krishan)

.....applicant

Versus

1. Director of Estates,
Directorate of Estates,
4th Floor, 'C' Wing,
Nirman Bhawan,
New Delhi.
2. The Estate Officer,
Directorate of Estates,
4th Floor, 'B' Wing,
Nirman Bhawan,
New Delhi.
3. The Secretary,
(Land & Building)
Government of National Capital
Territory of Delhi,
'A' Block, Vikas Bhavan,
Indraprastha Estates,
New Delhi-110 002.

(Advocate: Shri M.K.Gupta)

.....Respondents

ORDER

delivered by Hon'ble Shri B.C.Saksena, VC (J)

For better appreciation of the case of the parties the following relevant facts need to be noted.

2. Shri O.P.Verma the husband of the applicant was allotted Government residence bearing No. 6/677, Lodi Colony, New Delhi while he was in Government service. Shri O.P.Verma aforesaid was working in the Department of Overseas Communication, Govt. of India, later it was

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re-constituted as Videsh Sanchar Nigam and the said Shri O.P.Verma was taken on the strength of the said Nigam. He sought voluntary retirement due to some reasons and he demitted office on 8-12-93. It has been stated that there was a specific arrangement between the Videsh Sanchar Nigam and the Directorate of Estates on the analogy of M.T.N.L. and the husband of the applicant remained an allottee under Respondent No-1.

3. It has been stated that the applicant applied for regularisation of the allotment of the premises in question in her name and she made the first application in this behalf to the Directorate of Estates on 29-2-1988. Followed by request for regularisation in her representation dated 6.2.1990, 29.7.1991 and 17.3.1994. Copy of the subsequent three reminders or representations have been filed while copy of the application stated to have been filed on 29-2-88 is not on record. The applicant's further case is that letter dated 31-3-94 copy of which is Annexure A-6 was sent to Shri S.K.Singla, Member of Parliament in response to his letter dated 18-3-94 regarding transfer of Qr. No. 6/677 Lodi Colony in the name of the present applicant. In the said letter it was stated by Minister of State for Urban Development and Water Resources, Govt. of India that he was looking into the matter. It is stated by the applicant that while her request was under consideration the eviction proceedings were initiated against the allottee Shri O.P.Verma and a notice dated 3.7.1995 was delivered at the premises. The letter dated 23-2-95 was issued seeking information with regard to the date of retirement of the husband of the applicant. The Estate Officer issued a notice indicating that the allotment in favour of Shri O.P.Verma has been cancelled w.e.f. 1-4-86 and Shri O.P.Verma was called upon to show cause on 22-6-95 why such an order for eviction should not be made. He was

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also called upon to appear in person or through a duly authorised representative capable to answer all material questions connected with the matter in pursuance of Clause (b) (ii) sub section (2) of Section-4 of the Public Premises E.U.O. Act 1971.

4. The respondents have filed a counter affidavit in which it has been indicated that the employees of the Videsh Sanchar Nigam which was constituted on 1-4-86 and who were occupant^s of General Pool Accommodation^{were} allowed to retain the quarter for two years from 1-4-86 on payment of licence fees at market rate. Thus it is pleaded that Shri O.P.Verma employee of Videsh Sanchar Nigam was not eligible for regularisation of general pool accommodation under the Rules and there is no specific arrangement between the Videsh Sanchar Nigam and the Directorate of Estates to allow them to retain the accommodation. It has further been pleaded that the applicant is not eligible and is not entitled to general pool accommodation from the answering respondents. It has further been stated that it is well-settled law laid down by this Tribunal that School Teacher of Government of NCT are neither eligible nor entitled to Government accommodation in general pool.

5. The applicant has filed rejoinder in which it has been pleaded that the applicant is claiming allotment of the accommodation in question on her own right and her date of priority of such allotment has^{re} been indicated as on 27-4-1965. It has further been pleaded that there are conflicting judgements on this issue as to whether the School Teacher of Government of NCT is eligible for allotment of the general pool or not and therefore the matter may be referred to a larger Bench.

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6. We have heard the learned counsel for the parties. The following two questions arise for our consideration:-

- i) The locus standi of the applicant to challenge the order for eviction passed by the Estate Officer requiring Shri O.P.Verma and all other persons who may be occupant in the said premises within 15 days from the date of receipt of the notice.
- ii) Whether the applicant, school teacher of Government of NCT is eligible and entitled for regularisation or is eligible for allotment of accommodation in general pool or not.

7. From the facts indicated hereinabove it would be evident that Qr No. 6/677. Lodi Colony is a general pool accommodation and was allotted in the name of the applicant's husband Shri O.P.Verma who ^{no} longer continues in Government service and has demitted office on 8-12-93. The proceedings before the Estate Officer which has resulted in cancellation of the allotment and issuing the order for eviction has been challenged by the applicant. The learned counsel for the applicant placed reliance on Section-5 of the PP (Edu) Act 1971 to indicate the Locus standi of the applicant for challenging the order of eviction issued by the Estate Officer. The learned counsel laid stress on the following words in Section 5 (1): "Directing that the public premises shall be vacated by all persons who may be in occupation thereof or any part thereof".

He submits that since the eviction order also directs the vacation of the premises by the applicant who has been in occupation of the same, the applicant has locus standi to challenge the order of eviction.

8. We are not impressed ^{with} by the submission. After the allotment order is cancelled the occupation of the allotted premises would be rendered unauthorised occupation and the

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legislature in its wisdom, to obviate such an order of eviction of the allottee, to be circumvented have provided that the eviction order shall require all the occupants who would be unauthorised occupants of the allotted premises to vacate. The allotment was in the name of the applicant's husband only, there is no allotment in favour of the applicant. Merely by reason of the fact that she had continued to occupy the premises alongwith her husband, in our consider opinion, she has no right to challenge the cancellation of the allotment or the orders for eviction passed by the Estate Officer. Thus we are not satisfied that the applicant has any locus standi as far as the challenge to the order for eviction, through this OA, is concerned.

9. On the next question the learned counsel for the applicant urged that there has been a divergence of opinion by different Benches and even single Member on this issue. Learned counsel for the respondent on the other hand invited our attention to a decision rendered by a Division Bench on 6-7-94 in OAs No. 2161/93, OA 2182/93 and OA 2183/93. All the OAs were decided by a common judgement. A perusal of the said judgement shows that in the opening part the following observation was made "The common question to be decided in these three application is whether the teachers of Government institutions under the Directorate of Education of the Delhi Administration are entitled to the allotment of Government residences (General Pool in Delhi) or regularisation of the occupation of the same." Thus this issue was squarely under consideration in the said decision. After analysing the various provisions of the Government Residences (General Pool in Delhi) Rules 1963 and also referring to certain Office Memorandum it was held that Teacher in Delhi Administration is not eligible persons so as to entitle him/her allotment of Government residences

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on the general pool. It would be relevant to indicate that the provisions of Office Memorandum dated 27.12.1991 Directorate of Estates was also noticed in the said decision. Certain other decision rendered by the Tribunal also noted are ;

- i) OA No. 1713/87 (General Secretary, Videsh Sanchar Nigam Ltd. Employees Union Vs. UOI & Ors) decided by 13-5-91 by the Principal Bench of the Tribunal. It was held that the said decision does not advance the case of the applicant. It was held that S.R. General Rules do not provide for allotment of accommodation from General Pool to employees of Videsh Sanchar Nigam who are on deputation.
- ii) OA 331/90 B. Narain Sharma & Others. This decision was distinguished on the basis that order impugned in the said OA had been passed on 15-1-90 while the Office Memorandum dated 27-12-91 had not seen the light of the day.
- iii) OA 160/91 (Shri Anil Kumar Singh Vs. Union of India & Ors). It was noted that this was a case where a teacher has already been allotted a Government accommodation from the general pool and the controversy centred round the regularisation of the occupation of the said accommodation by his son who also happened to be a teacher. Keeping in view the facts and circumstances of the case, it was held that action under the Public Premises Act was not sustainable and was not justified and the respondents were directed to regularise the occupation of the Government accommodation in favour of the son with a further direction that normal licence fee be realised from the son from the date of superannuation of his father. The proceedings of ejection or for levying penal rent were quashed.
- iv) The 4th decision which was considered in OA 3527/92 (Smt S.S. Madan & Anr. Vs. Union of India & Ors) decided on 16.8.1993. The facts of this case are that

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Mr Madan and Mrs Madan joined as applicant. Mr. Madan had been Government accommodation from the general pool. He retired from service on 30-11-1991. On 6-12-91 Mrs Madan moved an application for her occupation of the said accommodation. Reliance was placed in the said case on the Office Memorandum dated 27-12-1991. In the said case a view was taken that it would be too much to ask her to apply now for allotment of accommodation from Delhi Administration after surrendering the General Pool Accommodation particularly in view of that fact she is on the verge of retirement. Division Bench deciding the OA 2161/93 of Smt Surinder Talwar after quoting from the said decision observed that the applicants before them cannot take any advantage from the decision in Smt Madan's case.

10. Besides the said decision learned counsel for the respondents also invited our attention to decision dated 14-9-1995 passed on Writ Petition (C) No. 585 of 1994 Shiv Sagar Tiwari Vs UOI and Others. That was a public interest litigation. In this petition amongst various matters which engaged attention of the Hon'ble Supreme Court was the case of Shri D.C. Malik. He was occupying House No. 922, Section VII, Pushp Vihar, Mehrauli Badarpur Road, New Delhi. Shri Malik retired on 31-8-1992 and he was working as a Teacher in the Delhi Administration. Ms. Raj Bala Malik, daughter of Mr. D.C. Malik, is also employed as a Teacher since February 1992 and claimed that she has been living alongwith her father and as such she is entitled to the allotment of the house. Considering this question the Hon'ble Supreme Court noted the submission made by Mr. K.T.S. Tulsia. Lt Additional Solicitor General, on instructions of the Directorate of Estates that since 1988-89 there is a separate pool under the Delhi Administration for the teachers employed under the said Administration. It was

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further noted that Shri Tulsi submitted that the daughter of Mr. D.C. Malik was not entitled to allotment of the general pool. Ms Raj Bala had filed OA 446/94 and MA 4642/94 before this Bench of the Tribunal. The submission made by Shri K.T.S. Tulsi found favour and a direction was issued to Mr. D.C. Malik and Ms. Raj Bala Malik to vacate the house and the proceedings before the Tribunal in this respect were directed to stand disposed of.

11. Learned counsel for the respondents further stated before us, which fact has not been disputed by the learned counsel for the applicant, that a review petition filed by Shri D.C. Malik was dismissed on 31-10-1995 by the Hon'ble Supreme Court. Learned counsel for the applicant invited our attention to a decision rendered by 15-12-1994 by learned single Member of this Bench of the Tribunal in Shiv Kumar Singhal Vs UOI through the Directorate of Estates, New Delhi. OA 247/94, in the said case the eviction order and cancellation letter thereby levying damage rent for the said accommodation treating him as unauthorised occupant from 1-12-1993 was under challenged.

12. The accommodation in question was allotted to the applicant's father who retired as a Principal from 31-7-93 and the applicant who has been living with his father in the said quarter has not been drawing HRA since his joining service. He had applied for allotment of the quarter in his name. The Minister of Housing and Urban Development however made an endorsement on the said application that Type-B on compassionate grounds be regularised. Before the learned single Member the decision in OA 831/90 was cited. B.Narain Sharma Vs. UOI and Others in the said case therefore it was held that when the Minister makes an endorsement in the appeal, it should be deemed that he has relaxed all the conditions and therefore

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the contention of the respondent's counsel that the Minister's endorsement is against the rules cannot be sustained. It was observed that if at all necessary they should have taken some other endorsement from the Minister that it is against the Rules. Thus the said decision proceeded on its own facts and lays down no general principle of binding nature. On the contrary the decision of the Hon'ble Supreme Court in Shri Shiv Sagar Tiwari case is binding upon us under the provisions of Article 141 of the Constitution of India. The second issue we have taken up for consideration was squarely before the Hon'ble Apex Court. The Review Petition has also been dismissed.

13. On a conspectus of the discussion hereinabove we find no merit in the OA. It is accordingly dismissed. The interim order is hereby vacated.



(K. MUTHUKUMAR)
Member (A)



(B.C. SAKSENA)
Vice-Chairman (J)

cc.