

Central Administrative Tribunal, Principal Bench

OA No. 1979/95

New Delhi, this the 9th day of December, 1996

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

Shri Lakhan Lal
s/o Shri R.S. Nagar
52/5, Sanyat Line, Delhi Cantt .. Applicant

(By advocate Shri S.S. Tiwari)

Versus ,

Union of India, through

1. Secretary
M/Defence, South Block
New Delhi
2. Station Commander
Delhi Station
Station Hqrs., Delhi Cantt.
3. Estate Officer
Delhi Station
Station Hqrs., Delhi Cantt.
4. UA BSO
Garrison Engineer (East)
Delhi Cantt. .. Respondents

(By advocate Shri M.M. Sudan)

O R D E R (oral)

Heard rival contentions of counsel for both parties.

2. The question that arises for consideration is: Whether an allotment of "unclassified type of accommodation" offered on "temporary basis" could be cancelled in utter disregard of the principles of seniority in the absence of any laid down provisions/guidelines regarding temporary allotment?

3. The applicant, a civilian employee, was allotted a type I quarter No.52/5 at Sanyat Line of Delhi Cantt vide Annexure B dated 1.6.92. This was an allotment "on temporary basis with effect from 1 June, 1992". The

above allotment has been cancelled by Annexure A dated 28.4.95 since "the said quarter is required for allotment to other needy persons on temporary basis". The applicant has been asked to vacate the premises by 20.5.95.

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4. The applicant, on 10.6.92 (Annexure C) protested against the aforesaid temporary allotment requesting the authorities to rectify the mistake, expressing his concern that he never wanted/applied for temporary allotment and demanding regular type of accommodation based on seniority.

5. Shri Tiwari, learned counsel for the applicant argued the case strenuously and contended that respondents are bound by principles of promissory estoppel as they decided to keep quite for three years even after the applicant's objection to the offer of allotment aforementioned. He submitted further that there is no provision of temporary allotment under SR 308/78 and that one temporary allottee cannot be displaced just to accommodate another employee and that too on temporary basis once again.

6. Shri Sudan, learned counsel for the respondents defended the respondents' action on the basis that Suit No.92/5 is unclassified accommodation and allotted to needy persons on temporary basis on their request. Since a large number of defence employees are requesting for allotment of married accommodation on compassionate/administrative grounds, the applicant was asked to vacate the premises. As per respondents, applicant's seniority for type II accommodation was of

of

May, 1971 whereas the running seniority for allotment of regular accommodation in the above category stood at January, 1962 and hence applicant's claim of seniority was baseless.

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7. The fact that respondents do not have any guidelines for allotment of unclassified accommodation has not been disputed. The respondents did not have any answer as to whether the "other needy person" for whom the above quarter was required was senior to the applicant herein.


8. That apart, I find "temporariness" has not been defined. What is temporary nobody knows. It is not known if it is with reference to a particular time frame or till one gets a regular allotment. In the case of Shri Balwant Singh (R4 dated 31.7.91), the temporary allotment was meant to constitute an upper limit of three months only. Whereas, in the case of the applicant, there was no such mention, not even after his protest immediately after the initial allotment. Respondents' action is thus vitiated by discrimination in the eyes of law. It is not disputed that type I quarters have been allotted to persons of February, 1972 seniority (Navin Chand Joshi allotted Quarter No.26/3 on 7.8.95) and of March, 1975 seniority (Shri Om Prakash allotted quarter No.23/8 on 13.2.96) though admittedly the applicant's seniority is of May, 1971. The applicant is already living in type I quarter and has not declined an allotment of a quarter one type below his entitlement. Sub-section (5) of SR 308 also provides consideration of such allotments (one type below entitlement) in appropriate cases. Counsel for

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respondents could not come out as to whether the applicant was considered for alternative regular type I accommodation before issuing the impugned order of eviction. It was not also disputed that officials junior to applicant have been offered type I units of quarters. I find some force in the submissions of learned counsel for applicant that the respondents acquiesced with the applicant's stand on the issue particularly when they failed to initiate an action or issue further orders on applicant's representation dated 10.6.92.

9. For the reasons mentioned and also in the absence of laid down guidelines governing allotment of unclassified units (temporary allotment) respondents are not justified in issuing annexures of series orders dated 28.4.95, 1.6.95 and 18.8.95. The eviction proceedings are unsustainable in the eyes of law. I, therefore, set aside the above orders.

The OA succeeds on merit and is accordingly allowed. No costs.


(S.P. Biswas)
Member(A)

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