

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.717/95

New Delhi this the 10th Day of May, 1995.

Hon'ble Shri B.K. Singh, Member (A)

Shri Jagdeep Singh,  
S/o Shri Sandhu Singh,  
R/o Q.No.6, Type-II,  
at C.P.W.D. Enquiry Office,  
Shahajahan Road,  
New Delhi. ...Applicant

(By Advocate : Ms Jasvinder Kaur )

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Union of India, through

1. Superintending Engineer,  
C.P.W.D., I.P. Bhavan,  
New Delhi.
2. Executive Engineer,  
'N' Division, C.P.W.D.  
New Delhi.
3. Ministry of Urban Development, through  
Directorate of Estates,  
Nirman Bhavan,  
New Delhi. ...Respondents

(By Advocate :Shri Mukesh Kumar Gupta)

Judgement (Oral)

(Hon'ble Shri B.K. Singh, Member (A) )

I have gone through the judgement passed by my brother and colleague Hon'ble Shri P.T. Thiruvengadam, Member (A) on 30th day of January, 1995 and the operative portion of that judgement reads as follows;

"Accordingly the O.A. is disposed of with the direction as above namely that the applicant shall be allowed to continue in his

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present accommodation till the end of April '95 and respondents shall charge normal rent from 1.7.92 till end of April '95."

On the same subject another O.A. No. 717/95 has been filed seeking the following reliefs;

- (i) Issue notice to the respondents and fix accountability on them regarding non-allotment of accommodation to the applicant in view of letter dated 18.08.92 issued by respondent No.2 till date;
- (ii) to direct the respondents to allot suitable accommodation to the applicant within a period of one months in view of letter dated 18.08.92.

Allotment and cancellation of the houses is not within the jurisdiction of the Court. It is for the respondents to consider the question of allotment taking into consideration the waiting list that they maintain and the priority given to a particular person in regard to allotment. Admittedly, they have issued an Order dt 18.08.92 but the circumstances in which the allotment could not be made is not clear. An allotment has to be made by the Directorate of Estates and not by C.P.W.D. The Directorate of Estates is a part of the department of Works and Housing, Ministry of Urban Development and,



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therefore, their plea is that it is the Directorate of Estates who should consider the question of allotting a house out of turn so that the present accommodation which belongs to the C.P.W.D. can be vacated. The respondents to whom the house belongs are not competent authority to allot a house.

Since the matter has achieved finality by decision given by this Court dated 30th day of January, 1995 the present O.A.No.717/95 is barred by principles of resjudicata. The Hon'ble Supreme Court in case of Dara Singh Vs State of U.P. has held that if the parties are the same and the subject matter of the suit is akin to the previous suit then the principles of resjudicata will apply. If an issue which could have been raised and was not raised in the previous suit the same cannot be raised again and is barred by the doctrine of resjudicata provided the same has been decided by a Court of competent jurisdiction. In the instant case the matter has been decided by a court of concurrent jurisdiction. The principle of resjudicata is based on the doctrine that it will not be in the interest of State to go in for protracted litigation on the same subject and <sup>it</sup> is a policy matter and resjudicata is not only a technical rule but a rule of law universally applicable to all the courts. The second ingredient is that a person should not be vexed twice for the same cause. This is the reason why a resjudicata is

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observed as a rule of law and not a technical principle. This O.A. is barred by the principles of res judicata and, therefore, should not have been admitted at all since the parties are the same and the same subject matter is being dealt with in this O.A. The applicant should have vacated the house by 30th April 1995 as already directed by Court of concurrent jurisdiction and it is presumed that the respondents would charge only normal licence fee from him as per direction given by the Court. However, while parting with this case I would like to observe that no vested right is there to retain this house which belongs to C.P.W.D. The directorate of Estates may consider the question of allotment of a house out of turn to the applicant but the present house if not already vacated may be got vacated by following sections 4 and 5 of the PPE Act, 1971. The applicant is also liable for payment of damage rent beyond 30th April, 1995.

With these observations this O.A. is disposed but without any order as to costs,

The Interim order passed by the Court is vacated.

  
(B.K. Singh)  
Member (A)

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