

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1436/96
T.A. No.

199

DATE OF DECISION 15.10.1996

<u>Sh. Y.P. Varma</u>	Petitioner
<u>Sh. Rajinder Nischal</u>	Advocate for the Petitioner(s)
Versus	
<u>The Secretary, Ministry of Urban Affairs & Employment and others</u>	Respondent
<u>Shri V.S.B. Krishna</u>	Advocate for the Responder

CORAM

The Hon'ble E.M.T. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr.

1. To be referred to the Reporter or not? yes
2. Whether it needs to be circulated to other Benches of the Tribunal X

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. 1436/96

Date of decision 15.10.1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Y.P.Verma
Flat No. 9/733, Lodi Colony,
New Delhi.

(By Advocate Shri Rajinder Nischal) ... Applicant

Vs.

Union of India- through

1. The Secretary,
Ministry of Urban Affairs & Employment,
Nirman Bhawan, New Delhi.
2. Director of Estates,
Directorate of Estates,
Nirman Bhawan, New Delhi.
3. Estate Officer,
Directorate of Estates,
Nirman Bhawan, New Delhi.
4. The Secretary (RAW)
Cabinet Secretariat,
Bikaner House Annexe, New Delhi.

(By Advocate Sh.V.S. R. Krishna) ... Respondents

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant has filed this application under Section 19 of the Administrative Tribunals Act., 1985 being aggrieved by the order passed by Respondent 3 dated 28.6.96 whereby he has been directed to vacate the quarter No.9/733, Lodi Colony, New Delhi and order dated 24.1.1994 passed by Respondent 2 directing him to pay damages for his continued occupation in the above quarter for the period upto December, 1995 (Ann.A.1 and Ann.A.2).

2. The brief facts of the case are that the applicant, who is presently posted as Private Secretary in the Cabinet

Secretariat, was allotted the aforesaid Govt. accommodation (Type-C) in 1990. He was transferred from Delhi to North East Region on 1.6.93 and had left behind his family at Delhi in the same quarter. According to him, in June, 1993 itself, he had submitted an application to the Respondent 4 for allotment of one type below quarter i.e. Type-B quarter for occupation of his family in accordance with the rules, as he was posted in North East Region which is a hard and difficult area. ~~However~~¹³, The respondents have submitted that as per rules, the applicant was entitled to retain the Type-C. accommodation for a period of two months. After his request, they have further permitted the applicant to retain type-C. quarter on educational grounds for another period of four months.

3. The applicant also submits that on 10.11.1994, he made a further representation for allotment of Type B quarter, as he was transferred back to Delhi on 27.1.1995. In pursuance of his application dated 10.11.94, he was allotted Type B quarter on 30.1.1995 in lieu of the present Type C quarter. The applicant has filed this application on 9.7.96. By the Tribunal's order dated 15.7.96, the impugned orders dated 28.6.96 and 24.1.1996 were stayed and he continues to reside in Type C-quarter.

4. In this application, the applicant has prayed for a direction to the respondents to regularise Type C quarter in his name from the date of deemed cancellation and any other reliefs as may be deemed fit in the circumstances of the case. In this connection, learned ^{Counsel} for the applicant has submitted that instead of ordering the applicant to pay damage rent in the Type C quarter for the intervening period, the respondents may be directed to take the difference of damage rent between Type B quarter and Type C quarter taking into account the facts and circumstances of this case.

5. I have heard both the learned counsel and also perused the records carefully.


6. The applicant has submitted that since he had entered the Central Govt. service in 1966, his date of priority for Type C quarter in Genl.Pool is already covered from July, 1996. It is ^{also} seen from the OA that the applicant had submitted in June, 93 itself an application to the Respondent 4 for allotment of Type B quarter in lieu of the Type C quarter on his transfer from Delhi to North East Region in accordance with the rules. However, no reply has been filed by the respondent 4 to deny this fact. This being a question of fact, I deem it proper to direct the Respondent 2 to obtain ^{the} necessary clarification/certificate from Respondent 4 regarding the submission of ^{the} application, if any, by the applicant in June, 1993. In case, such an application had been made by the applicant in June, 1993, then Respondent 2 shall take ^{the} date of allotment of Type B quarter from the date it was first available after June, 1993. It is further noted that in pursuance of the application made by the applicant on 10.11.1994 the Respondent 2 had allotted a Type B quarter on 30.1.1995 i.e. within a period of about four months. On this point, it is further noted that the applicant is still in ^{the} Type C quarter and he has also made an averment in the OA for retention of the allotment of this quarter as his priority is covered ^{from} some time in the Month of July, 1996.

5. In the facts and circumstances of the case, if the respondents on verification find that the applicant's date of priority is covered for Type C quarter and that the applicant had made an application in June, 1993 to the Respondent 4, then, in the facts and circumstances of the case they may consider regularisation of the present quarter No 9/733, Lodi Colony, New Delhi in the name

of the applicant, subject to the date of his priority having been covered in this case. In case the applicant's date of priority for Type C quarter is not covered, then respondents shall allot a type B quarter to the applicant within one month from the date of receipt of a copy of this order as he has already been allotted a similar quarter earlier.

6. As regards the damage rent payable on the quarter occupied by the applicant and his family from 27.1.1994 till the date of regularisation of the Type C quarter or allotment of Type B quarter as directed above, normally under the rules, he is liable to pay damage rent for this period. However, in the facts and circumstances of the case, the applicant may make a representation to the Respondent 2 who shall consider the same taking into account the peculiar circumstances of the case in respect of charging of rent and recover the same in instalments.

7. O.A. is disposed of as above. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member (J)

S.K.