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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2369/1996

NEW Delhi, this 4th day of November, 1997

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

1. Mrs. Thankamma Joy
 2. Mrs. Josephena Tomy
- Both working as Staff Nurse
LNJPN Hospital, New Delhi-2 .. Applicants

(By Advocate Shri N.A. Sebastian)

versus

Secretary (Medical)
Govt. of NCT of Delhi,
5, Shamnath Marg, Delhi-54 .. Respondent

(By Advocate Shri Vijay Pandita)

ORDER(Oral)

The applicants are staff nurses working in Lok Nayak Jai Prakash Narain (LNJNP in short) Hospital since 1988. They are before this Tribunal seeking ad hoc allotment of appropriate category of residence under the Rules. As per the Rules of allotment, entitlement of quarters to the applicants herein is covered by provisions under Rule IV of the Rules, annexed to the application, which specifies entitlement for a type of quarter based on salary structure mainly for the category of staff on hand. Based on this, the applicants are entitled for type III units. Learned counsel for the applicants would submit that since the allotment is on compassionate/medical ground on ad hoc basis they are entitled for Type II accommodation, i.e. one below of their present entitlement. Applicants have also come up with a case of discrimination in the sense that other similarly placed persons have been provided with Type II quarter by the respondents ignoring their superior claims.

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2. In the counter, respondents have opposed the reliefs stating that out of turn allotment is impermissible as per Allotment of Residences Rules, 1977 meant for Maulana Azad Medical College associated Irwin and G.B. Pant Hospital New Delhi.

3. The short question for determination is whether the applicants are:-

(a) Covered under the category of adhoc allotment on medical grounds and

(b) Whether they could be allotted Type-II accommodation on ad hoc basis right now till they are given, in turn, Type-III Units to which they are entitled.

4. In the course of the pleadings, it was admitted by the learned counsel for the respondents that the applicants are covered under the allotment rules on medical grounds. That apart, in paras 4.2 and 4.4, the applicants claim that -

"4.2 The applicants are T.B. patients and are entitled to allotment of houses on priority basis.

4.4 That as per the allotment rules prescribed by the respondent, the applicants are entitled to allotment of Type III accommodation if the allotments are made in the normal course.

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In the counter, the respondents have admitted the contents of para 4.2 in full but admitted the contents of para 4.4 partially. Based on the above admission, the provisions under O.M.No. 3/8/71-CDN. Pol.II dated 27.12.1976 are equally applicable to the respondents herein. As per provisions under the above OM, applicants would be entitled for allotment on medical grounds on ad hoc basis. Thus, the dispute is not about the entitlement of allotment on priority basis, the dispute is only as regards the type to which they are entitled at the moment. Since the respondents admit that the applicants are entitled for Type III quarters presently, they could only be considered for allotment of Type II quarters now since their date of priority for the appropriate type has not been covered. The allotment of a quarter on ad hoc basis, one type below the entitlement, against certain specific categories like those suffering from pre-determined medical grounds, those belonging to SC/ST and handicapped persons is to be provided as per the norms laid down by Government of India. Whereas others would get allotments as per the rules and regulations i.e. the scheme of priority being followed by the respondents. The rules of allotment for such categories as laid down by the Government of India (Ministry of Urban Development) vide the aforesaid OM cover such ad hoc relief in deserving cases.

6. Based on the details aforesaid, the applicants deserve consideration of allotment of one type below their entitlement since the allotment is being sought for on the ground of applicants' suffering from T.B., as one of the grounds for ad hoc allotments. The applicants' claim for

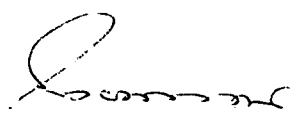
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allotment of Type-II on ad hoc basis cannot be ignored based on OM issued by the Ministry of Urban Development and acceptance of the principle by the respondents.

7. In the result, the application is allowed with the following directions:-

- (i) Respondents shall consider the case of applicants for allotment in Type II quarters under medical grounds against 5% quota provided in the category.
- (ii) If there are large number of persons waiting for out of turn allotment on medical ground in category II, the applicants case should be considered in the background of priority maintained in medical categories.
- (iii) Applicants shall be intimated of the chance/possibility of such allotment within six months from the date of receipt of a certified copy of this order.
- (iv) There shall be no order as to costs.


(S.P. Biswas)
Member (A)