

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.432/1996

New Delhi, this 26th day of February, 1997

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

Shri Hari Om
s/o Shri Daya Ram
88/3, Pinto Park
Air Force Station, Palam, Delhi cantt. ... Applicant

(By Shri A.K. Trivedi, Advocate)

versus

Union of India, through

1. Secretary
M/Defence, New Delhi
2. Air Officer Commanding
3 Wing, Air Force Station
Delhi Cantt
3. Sr. Barrack & Store Officer
CWE (AF), Palam, Delhi Cantt
4. Barrack/Stores Officer
GE(North) Air Force Palam, Delhi cantt
5. Shri Gurbir Singh, UDC,
91/3, Pinto Park
AF Palam, Delhi cantt .. Respondents

(By Mrs. Meera Chhibber, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

The short question for determination is whether an eligible employee living in Type II Government quarter can legally claim allotment of a higher type of accommodation (type III) under the provision of change of accommodation (from type II to type III) when he is simply entitled for the said higher type but not having his date of priority being covered for type III unit.

2. The applicant, a Surveyor Assistant Grade II in the office of Garrison Engineer(North) Air Force Palam, Delhi Cantt., is aggrieved by Annexure A order dated 30.1.96, by which his request for change of

accommodation from Type II to Type III has been rejected. The applicant in this case had asked for change of accommodation for Type III (Quarter No.91/3, Pinto Park, AF Pálam), which has been allotted to Respondent No.5. The applicant alleges that the said allotment to R-5 is irregular and in violation of SRO 308/78.

Heard the rival contentions of both the parties.

3. It is not in dispute that applicant's service seniority is of 1988 whereas the service seniority of R-5 is of 1963. The rules that govern allotment of residential accommodation in the present case are stipulated in statutory rules and orders issued by the Ministry of Defence dated 28.10.78. Under the rules framed in SRO 308 in exercise of powers conferred by the proviso of Article 309 of the Constitution, the following provisions would govern the present case of allotment of residential unit:

"6(1) Save as otherwise provided in these rules, a residence on falling vacant, will be allotted by the Allotting Authority preferably to an applicant desiring a change of accommodation in that type and if not required for that purpose to an applicant without accommodation in that type".

"2(h)(i) provides that in respect of a type B, type C or type D residence, the date from which officer has been continuously in service under the Central Government including the periods of foreign service shall be his priority date for that type".

4. In the instant case, R-5 has superior claim over the applicant since he has service seniority as of 1963, vis-a-vis the applicant who has service seniority of 1988. For the category of accommodation we are examining the earlier date of joining service determines the date of priority.

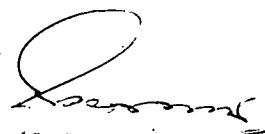
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5. Learned counsel for the applicant conceded that though the applicant's date of priority for type III is not yet covered but the respondents have not considered his representations dated 7.2.92 and 16.12.95 addressed to Estates Officer/Allotment through proper channel and that it has been illegally allotted to R-5.

6. I find that the applicant had applied for change of accommodation from type II to type III as per rules. Change of accommodation in the same category is permissible subject to provisions laid down. But the request for change for a higher category of housing unit would amount to fresh allotment and necessitate fulfilment of allotment rules, i.e. entitlement and date of priority. The applicant has not fulfilled this legal requirement. When the request for change is for higher category and not in the same category, the rule relating to fresh allotment will apply.

7. As per records available before us, on the relevant date, officers with seniority of 1963 were being considered for allotment of type III quarter whereas the applicant has priority date of 1988 only. The claim of the applicant, therefore, is not covered under the rules.

8. For the reasons stated above, the application fails on merit and is dismissed accordingly. No costs.


(S.P. Biswas)
Member(A)

/gtv/