

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

HON. SHRI R.K. AHOOJA, MEMBER (A)

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OA NO. 71/96
MA NO. 9/96

NEW DELHI, THIS 18TH DAY OF DECEMBER, 1996.

SHRI RIKHI RAM
S/o Shri Barfi Ram
r/o Quarter No. G-488
Sri Niwas Puri
NEW DELHI.

SHRI SURESH KUMAR
S/o Shri Rikhi Ram
Quarter No. G-488
Sri Niwas Puri
NEW DELHI.

... APPLICANTS

(By Advocate SHRI A.K. VERMA)

VERSUS

The Director
Director of Estates
Nirman Bhawan
NEW DELHI.

The Estate Officer
Office of the Medical Superintendent
Safdarjung Hospital
NEW DELHI.

... RESPONDENTS

(by Advocate Shri J. BANERJEE,
proxy for Shri Madhav Panikar,

ORDER (ORAL)

Applicant No.1, who was employed in Safdarjung Hospital, was allotted government accommodation No.G-488, Srinivas Puri, New Delhi. He retired from service on 31.12.94. It is claimed that applicant No.2, his son, was residing with him and did not draw any house rent allowance. Applicant No.2 is also a government servant, working in the Collectorate of Customs, and is eligible

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for allotment out of the General Pool accommodation. The applicants submit that a request was made for regularisation of the quarter allotted to applicant No.1 in favour of applicant No.2 through interpool exchange of the house with a general pool house. The applicants are aggrieved that without considering this request, on the basis of similar precedents in the past, the respondents have passed the impugned order A-5 wherein he has been directed to hand over the vacant possession of the quarter within three days with a threat that otherwise necessary action to evict him under the Public Premises Act 1971 will be taken. The applicants seek a direction that this impugned order be quashed and respondent No.1 be directed to expedite the case of the applicant for interpool exchange of the quarter and respondent No.2 should also be directed to provide an opportunity of hearing to the applicants.

2. The respondents in the reply state that the allotment of the said quarter in favour of applicant No.1 has been duly cancelled on the expiry of the permissible period of four months. The applicant No.2 is not an employee of the Safdarjung Hospital and therefore his case cannot be considered for regularisation of the accommodation which belongs to the Hospital Pool. They also state that the facility of such regularisation is available only in respect of General Pool accommodation.

3. I have heard the ld. counsel on both sides. Shri Verma, counsel for the applicants, submits that there have been cases where such interpool exchanges have been allowed and the applicants have been singled out for

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discriminatory treatment by refusing such an exchange. He further submits that the Memorandum A-5 threatening the action for eviction has been issued without affording the applicants an opportunity to be heard. Shri Hari Shankar, counsel for the respondents, fairly concedes that the applicants are entitled to be heard before action against them is taken for eviction. He also points out that as is mentioned in para 1 of the counter affidavit ^{or} ~~He also points out that~~ Memorandum A-5 only informs the applicants that in case they do not vacate the accommodation then action under Public Premises Act will be initiated. The applicants would then have every opportunity to present their case before the Estate Officer. In view of this position, the ld. counsel submits that the application is premature and unwarranted.

4. In view of the above position, this OA can be disposed of with the direction that before any action is taken for eviction, the applicants will be given an opportunity to present their case including a personal hearing, if they so wish and final orders will be passed giving answers to all the points raised by the applicants before the Estate Officer. The respondents will maintain the status quo in respect of the accommodation in question ^{or} ~~till then~~. This will be without prejudice to their right to charge any penal/damage rent. No costs.

R.K. AHOJA
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MEMBER (A)