

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 818/1996

New Delhi this the 20th Day of February 1998

Hon'ble Shri R.K. Ahooja, Member (A)

1. Shri Dinesh Kumar Sharma,
Son of Shri L.D.Sharma,
working as LDC in the Registry of
Principal Bench of
Central Administrative Tribunal,
New Delhi and residing at 1240
Gulabi Bagh, New Delhi.
2. Shri L.D. Sharma,
Son of Shri Tika Ram Vaid,
retired as Head Clerk from
Directorate of Economics & Statistics,
Govt. of National Capital Territory of
Delhi and residing at 1240
Gulabi Bagh,
Delhi. Petitioner

(By Advocate: Shri B. Krishan)

-Versus-

1. The Secretary,
Land & Building Department,
(Estate Branch),
Govt. of National Capital Territory of Delhi,
Vikas Bhawan, New Delhi-110 002.
2. The Director of Estates,
Directorate of Estates,
4th Floor, 'C' Wing,
Nirman Bhawan,
New Delhi. Respondents

(Dept. Representative : Shri Kaushal Kumar, Asstt.)

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant No. 1 joined service as Lower Division Clerk in the Central Administrative Tribunal w.e.f. 5.5.1992. His father, applicant No. 2 was, at that time, working under the National Capital Territory of Delhi and was allotted a house bearing No. 1240 Type II, Gulabi Bagh, Delhi belonging to the Delhi Government Pool. Applicant No. 1 submits that

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he was throughout, after joining the services of the Central Government, residing with his father and for that reason did not claim any House Rent Allowance. Applicant No. 2 retired from the service of NCT of Delhi w.e.f. 31.12.1995. Thereafter, applicant No. 2 gave a representation to Respondent No. 1 to regularise the accommodation allotted to his father i.e., applicant No. 2, in his favour. This representation, however, was rejected by Respondent No. 1 vide letter No. F.1(1240)/95/RRG/G-B dated 6.2.1996 (Annexure A-1). It is aggrieved by this order of rejection that the applicants have come before the Tribunal seeking a direction that the house in question be regularised in favour of applicant No. 1 w.e.f. 1.5.1996.

2. Respondent No. 1 has filed a reply stating that the house belongs to the Delhi Government Pool while Applicant No. 1 is entitled to an allotment only from the General Pool. It is for that reason that the request of the applicants has been rejected.

3. When the matter came up for a final hearing, Shri B. Krishan, the learned counsel for the applicant drew my attention to a number of orders passed by this Tribunal in similar cases wherein inter-pool exchange of Government accommodation was involved. In a similar case of Sanjeev Joshi and Others vs. Secretary, Ministry of Urban Development & Others, in OA No. 1257/96 decided on 15.1.1998, the

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question involved an Inter Pool transfer between Safdarjung Hospital Pool and the General Pool. It was directed by the Tribunal that the Directorate of Estates, respondent No. 2 therein and the Medical Superintendent, Safdarjung Hospital should consider the question of Inter-pool exchange and decide the same within a period of four months from the date of the order. It was also directed that till such time the decision was taken, the applicant should not be evicted from the quarter, in question.

4. During the course of the argument, it was also pointed out by Shri Krishan that the Directorate of Estates have in the case of Smt. Sushma Raizada vide order dated 5.5.1997, and that of Smt. Susma Pandey vide order dated 17.10.1996, allowed inter-pool exchange of accommodation between the Delhi Government Pool and the General Pool.

5. No. counsel appeared on behalf of Respondent No. 1 and no reply was also filed on behalf of Respondent No. 2.

6. On perusal of the records I find that the Government of India issued an OM No. 12035(9)/89-Pol.II dated 3.11.1993 on inter-pool exchange of Government accommodation. According to this OM, inter-pool exchange may be permitted in cases where officers having accommodation in one pool are transferred to offices where they become entitled to a different pool accommodation. Although, pernew of this OM is

69

limited only to the cases of transfer of officers between Government of Delhi and the Government of India, once the principle of exchange of pool accommodation is conceded, there is no reason that the same principle may not apply in case of ad hoc allotments.

7. As mentioned earlier, the applicants have also been able to point out that such cases of inter-pool transfer between the Delhi Government and the General Pool have occurred in the past. Respondent No. 1 says that this was done in the rarest of the rare circumstances. Since the circumstances in which such exchanges were allowed have not been mentioned, it cannot be said as to how these differ from the case of the applicant and why the same concession cannot be granted to the applicant herein.

8. In the light of the above discussion, and following the orders of this Tribunal in OA No. 1257/96, the present OA is also disposed of with the direction that Respondent No. 1 will, in consultation with, Respondent No. 2 consider the question of inter-pool exchange of house allotted to applicant No. 2 and decide the request of the applicants for regularisation in favour of Applicant No. 1. This will be done within a period of four months from the date of receipt of a copy of this order. Till such time a decision is taken, the applicants will not be

102

32
evicted from the quarter in question. This will, however, be without prejudice to the right of the respondents to claim rent as per rules.

The OA is disposed of as above. There is no order as to costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

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