

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1214/97, OA-1249/97 & OA-1265/97

New Delhi this the 1st day of July, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Sh. S.P. Biswas, Member (A)

OA-1214/97

Shri B.D. Sinha,
Block 9, Type V-61,
Lodhi Road Complex,
New Delhi.

..... Applicant

(through Sh. Vikas Singh, advocate)

versus

1. The Directorate of Estates,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi.
2. The Asstt. Director of Estates in
the Directorate of Estate,
Ministry of Urban Affairs & Employment,
Nirman Bhawan, Govt. of India,
New Delhi.
3. The Deputy Director (Policy),
Directorate of Estates,
Ministry of Urban Affairs & Employment,
Nirman Bhawan, Govt. of India,
New Delhi.

..... Respondents

(through Sh. R.V. Sinha, advocate)

OA-1249/97

Sh. G.P. Gupta,
S/o Sh. S.M. Gupta,
R/o C-157, Nanak Pura,
New Delhi-21.

..... Applicant

(through Shri A.K. Behera, advocate)

versus

1. Union of India through
its Secretary,
Ministry of Urban Affairs and Employment,
Directorate of Estates,
Nirman Bhawan, New Delhi.
2. Director of Estates,
Nirman Bhawan,
New Delhi.

..... Respondents

(through Sh. R.V. Sinha, advocate)

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OA-1265/97

Sh. V.K. Choubey,
S/o Sh. Bachche Choubey,
R/o 1071, Sector-8,
R.K. Puram,
New Delhi-22.

..... Applicant

(through Sh. A.K. Behera, advocate)

versus

1. Union of India,
through its Secretary,
Ministry of Urban Affairs and Employment,
Directorate of Estates,
Nirman Bhawan, New Delhi.

2. Director of Estates,
Nirman Bhawan,
New Delhi.

..... Respondents

(through Sh. R.V. Sinha, advocate)

ORDER(ORAL)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

These matters were reserved for orders by our orders dated 6.6.97. It was brought to our notice that an Ordinance known as 'The "Out-Of-Turn Allotment of Government Residences (Validation) Ordinance, 1997" has been passed and it has come into force at once i.e. to say on 21.6.1997. In view of the said Ordinance, we had recalled all these matters which were reserved for judgement for being spoken and the same are on daily board today.

The learned counsel for the applicant submits that the cut of date originally decided by the Hon'ble Supreme Court for the purpose of application of the decision of the Hon'ble Supreme Court was 1.1.91 and thereafter the Hon'ble Supreme Court itself had changed this date to 1.4.91 i.e. to say the directions of the Hon'ble Supreme Court will be

applicable only to those cases where the allotment or allocation has been made after 1.4.91. Admittedly, in the present case, the allotment was made between 1.1.91 and 1.4.91. The learned counsel for the respondents disputed these facts and stated that even though allotment/allocation order was made prior to 1.4.91, the actual possession was taken only after 1.4.91. It was also stated that the name of the applicant had been included in the final list of would-be-evictees in pursuance of the order of the Hon'ble Supreme Court. We do find an apparent mistake in the said list and on perusal of the record we find that the principle applied by the Hon'ble Supreme Court while determining the cut of date as 1.4.91 and on perusal of the record, still exclude the case of applicants. We order accordingly.

We are passing this order in accordance with the directions given by the Hon'ble Supreme Court while applying the very principle and the basis stated in the order of the Hon'ble Supreme Court and on perusal of the record we find that there has been a mistake apparent on the face of the record itself.

Hence the eviction order issued against the applicant shall not be applicable to him on this account alone.

The department is at liberty to take action against the applicant if any other remedy available in law survives.

The respondents counsel in all fairness submitted that this was a matter where clarification was required from Hon'ble Supreme Court itself and they have taken steps to do so. Since the matter is now before us and we find that there is a bonafide mistake in applying the cut of date, we propose to pass the above order and the matter need not be dragged to the Hon'ble Supreme Court on this account. In result, the impugned order is quashed to the extent stated above.

With the aforesaid observations, this O.A. is disposed of. No costs.

(S.P. Biswas)
Member(A)

(Dr. Jose P. Verghese)
Vice-Chairman(J)

/vv/

Attested

Kishan P
3/7/92
CO/C-II