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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 203/97

New Delhi this the 10th day of September, 1997.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Shri Gosain Ram
Q.No.37, Sector-V, M.B. Road,
New Delhi.

2. Shri Niranjana Dev
Qr.No.37, Sector-V,
M.B.Road, New Delhi.

.. Applicants

(By Advocate Shri George Parackal)

Vs.

1. Director,
Directorate of Estates,
Nirman Bhawan, New Delhi.

2. The Medical Superintendent,
Safdarjung Hospital, New Delhi

(Mrs. P.K. Gupta, learned counsel through Respondents
proxy counsel Shri Harvir Singh)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The grievance of the applicant in this case is against the order passed by the respondent No.1 dated 22-30/10-96 by which the applicant had been asked to vacate the Govt. quarter allotted to applicant No.1 while he was in service. The applicant 1 has retired from service with the Central Government Health Services, Ministry of Health New Delhi w.e.f. 31.5.96. During his service, he had been allotted quarter No.37, Sector-V M.B. Road, New Delhi. The applicant No.2 who is working as class-IV employee in the Safdarjung Hospital submits that he has been residing in the same quarter w.e.f. 29.3.93. The applicant states that he has submitted a representation to respondent No.1 through respondent No.2 in the prescribed pro forma for regularisation of the quarter or alternatively allotment of type-I quarter for which applicant

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2 was entitled. In the impugned order dated 30.10.96, the respondents have stated that applicant No.1 had been allowed to retain the quarter upto 31.1.1997 on payment of twice the flat rate under FR 45-A or twice the licence fee already being paid by him on medical grounds. Applicant No.1 was also informed that he had not been allowed to continue in that quarter and he should vacate the quarter on or before 31.1.1997, failing which necessary action will be taken for ~~vacation~~^{of} the quarter and for charging the damage rent as prescribed under the rules.

2. The applicant has filed MA 953/97 against the notice issued under Section 4 of the Public Premises (Eviction) of Unauthorised Occupants Act, 1971. The Tribunal by order dated 24.4.97 had directed that status quo should be maintained regarding/^{taking} possession of the quarter in question.

3. Respondent No.2 has filed^a sketchy reply in which it is seen that some of the averments made by the applicants were to be replied by Respondent No.1 but they have, however, not filed any reply. In para 4.5. of the application, the applicant has stated that Respondent No.1^{is} having a large number of houses in General Pool Accommodation and there is^a system of inter-pool exchange with other pools of accommodation in Delhi. Learned counsel has submitted that these houses in other pools are certain ear-marked houses situated within the same housing complexes of general pool accommodation and such practice of exchange exists. /This fact has been admitted by Respondent 2 that inter-pool exchange of quarters^{the} between Directorate of Estates (Respondent No.1) and Safdarjung Hospital pool is in practice. Learned counsel for the applicant has submitted that^{the} practice of inter-pool exchange of houses is common. He relies on the judgment of this Tribunal in

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Dr. A Golmel and another V. UOI & another (OA 1249/91) decided on 4.9.92 (Copy placed at Ann.E) and the order passed by respondent No.1 in another similar case, following the judgement of the Supreme Court in S.S. Tiwari V. UOI & Ors. (Writ Petition (Civil) No.585/94). He submits that in pursuance of the Supreme Court orders dated 14.9.96, the allotment of the quarter in the name of Smt. Kaushlaya Lal had been placed at the disposal of the Safdarjung Hospital for allotment to her, in lieu of another quarter in ^{the} General Pool. (Copy placed on record). Learned counsel submits that in pursuance of this letter, the exchange of the quarter between Genl. Pool Accommodation and S.J. Hospital Pool have been completed. He, therefore, submits that a direction may be given to the respondents to allot Type-I-quarter to applicant No.2 in exchange of a similar type of quarter from the S.J. Hospital Pool.

4. From the facts mentioned above, it is seen that although Respondent 1 has not filed any reply, Respondent No.2 has admitted that inter-pool exchange of quarters between ^{the} Directorate of Estates (Respondent No.1) and S.J. Hospital Pool is in practice. If that is so, there is no reason why, in the facts of this case, Respondents 1 and 2 should not have adopted the same practice. It is seen that applicant No.2 had made a representation for regularisation of the quarter which has been allotted to his father in the prescribed proforma which had been forwarded to Respondent No.1 through respondent No.2 on 18.6.96. Admittedly, the applicant No.2 is entitled for only type-I quarter and not type-II-quarter.

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5. In view of the facts mentioned above, Respondent 1 shall consider the request of the applicant No.2 for regularisation of the quarter or in the alternative exchange type-I-quarter with respondent No.2, as in the cases referred to above, and regularise the same in the name of applicant No.2. This shall be done within two months from the date of receipt of a copy of this order, till which time the applicant shall not be physically evicted from the quarter No.37, Sector-V, M.B. Road, New Delhi. On such allotment the applicant shall vacate Type-II quarter within the time prescribed by the competent authority. The applicant shall also be liable to pay rent for the intervening period from the date of cancellation of Type-II quarter till occupation of the type-I. quarter as per rules.

6. Q.A disposed of as above. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)