

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 2739/97

Decided on 17-12-98

(19)

Smt. Sushamlata Nanda. Applicant

(By Advocate: Shri B.B. Rawal.)

Versus

Union of India & Ors. Respondents

(By Advocate: Shri B.K. Agarwal)

proxy for Shri Rajeev Bansal)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying benches of the Tribunal or not ? No.

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(S.R. Adige)
Vice Chairman (A)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA NO.2739/97

(20)

New Delhi: this the 17th day of December, 1998.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

1. Smt. Sushamla Nanda,
D-54, Dev Nagar,
New Delhi.
2. Sh. D. V. Nanda,
D-54, Dev Nagar,
New Delhi. Applicants.

(By Advocate: Shri B. B. Raval)

Versus

1. Union of India through
the Secretary,
M/O Urban Development & Employment,
Nirman Bhavan,
New Delhi-01,
2. The Director of Estates,
Nirman Bhavan,
New Delhi -01.
3. The Director General,
CPWD,
Nirman Bhavan,
New Delhi-01 Respondents.

(By Advocate: Shri B. K. Agarwal, proxy for Shri Rajeev Bansal).

ORDER

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

Applicants seek a direction to Respondent No.2 to issue occupation slip in respect of Qr. No. J-677, Mandir Marg, New Delhi forthwith to enable them to surrender Qr. No. D-54, Dev Nagar, Karol Bagh, New Delhi allotted to applicant No.2, and for payment of costs.

2. The admitted facts are that applicant No.2, who was the allottee of Govt. Qr. No. D-54, Dev Nagar, retired on superannuation on 31.10.95. Applicant No.1 who is the wife of Applicant No.2 and is also a Govt.

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servant was informed by letter dated 13.8.96 (Annexure-A/1) that the competent authority had decided to sanction allotment of alternative Type-II Govt. accommodation nearest to Dev Nagar area upon her husband's retirement. Acknowledging receipt of this letter, Applicant No.2 requested for permission to retain Qr. No. D-54, Dev Nagar for a further period of 1 month vide letter dated 27.8.96 (Annexure-A2). Thereafter by letter dated 24.9.96 (Annexure-A3) applicant No.1 was allotted Type-B Qr. No. H-480, Kali Bari Marg, New Delhi but when she went to see the premises she found it already occupied, which is also admitted by Respondents. She accordingly brought this fact to respondents vide letter dated 27.9.96 (Annexure-A4).

3. It is further contended that instead of allotting alternative accommodation in lieu of Qr. No. H-480, Kali Bari Marg, New Delhi, Respondent No.2 issued notice under sec.4(2)(b)(1) P.P.(EOU) Act to Applicant No.2 on 27.2.97 to show cause on or before 14.3.97 (Annexure-A5). It is stated that a reply was sent by Applicant No.2 to that show cause notice on 12.3.97, but during the course of showing cause and participating in the proceedings, Applicant No.1 was surprised to learn that allotment of an alternative accommodation bearing Qr. No. C-302, Albert Square was said to have been made to her on 2.1.97. Applicant No.1 denies receipt of any such allotment letter and states that in continuation of reply dated 12.3.97 another letter was sent to Dte. of Estates on 2.6.97 denying receipt of any such allotment letter. Eventually respondents allotted her yet another quarter namely No.J-677, Mandir Marg, New Delhi, but

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contends that, communicating acceptance of the aforesaid quarter, when she went to collect the occupation slip, she was given to understand that unless she paid the damage rent on account of alleged overstay in D-54, Dev Nagar, Karol Bagh, the occupation slip would not be issued to her, again which action of respondents, she has filed this OA.

4. Respondents in their reply challenge the OA. They contend that applicant No.2's date of retirement was 31.10.95, and he was allowed to retain Type E qr. No. D-54, Dev Nagar allotted to him till 30.6.96. On 3.6.96 answering respondents received an application from Applicant No.1 through her office for adhoc allotment of accommodation. As per rules such request should have been made within 30 days from date of retirement. However, after condonation of delay sanction for a Type B accommodation was issued on 13.8.96, and on 24.9.96 applicant No.1 was offered qr. No. H-480, Kali Bari Marg, New Delhi, but upon it being pointed out by her that the aforesaid quarter already stood allotted, she was allotted another qr. No. C-302, Albert Square on 2.1.97. Respondents state that applicant No.1 did not come forward for acceptance of this quarter and accordingly a note was recorded on 26.2.97 that as she was not coming forward to accept the same, eviction proceedings should be started in respect of D-54, Dev Nagar. Respondents state that during eviction proceedings applicant no.1 informed them that she never received Albert Square allotment letter, upon which on 27.6.97 she was offered yet another quarter No. J-677, Mandir Marg, but when she came to take possession of this quarter, she was asked to clear arrears in respect of

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D-54, Dev Nagar allotted to her husband which amounted to Rs.1,19,651/-.

5. Applicants have also filed their rejoinder in which they have broadly reiterated the contents of the OA.

6. I have heard applicants' counsel Shri Rawal and respondents' counsel Shri B.K. Agarwal. I have also perused the materials on record.

7. I am informed that in regard to person of the rank and status of applicant no.2, the allotment letter is sent through the Govt. employees office, and there is a letter from applicant's office dated 4.7.97 (Annexure-A9) intimating that no letter dated 2.1.97 for allotment of accommodation to applicant no.1 was received in that office. Respondents also do not deny that it is because of their own inadvertence that they issued allotment of qr. No. H-480, Kali Bari Marg to applicant No.1 to enable her and her husband applicant no.2 to vacate qr. No. D-54, Dev Nagar, although that quarter already stood allotted to someone else.

8. Keeping in view the above, and noting that the relief prayed for in this OA is limited to directing respondents to issue occupation slip in respect of Type II qr. No. J-677, Mandir Marg, New Delhi forthwith, to applicants on payment of normal rent, to enable them to vacate Type V qr. No. D-54, Dev Nagar, Karol Bagh, in the facts and circumstances of this particular case, it would be appropriate to delink the recoveries of arrears of license fee in respect of D-54, Dev Nagar with the issue of the occupation slip in respect of qr. No. J-677, Mandir

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Marg, New Delhi.

9. Accordingly, in the facts and circumstances of this particular case which will not be treated as a precedent this OA is disposed of with a direction to respondents to delink the recoveries of arrears of license fee in respect of D-54, Dev Nagar from the question of issue of occupation slip in respect of Gr. No. J-677, Mandir Marg to applicants, and to issue the aforesaid occupation slip to them forthwith on payment of normal rent, without prejudice to respondents' claim to recover arrears of license fee in respect of D-54, Dev Nagar from applicants in accordance with law, and which will be subject to such just legal defences as applicants may choose to take.

10. This OA is disposed of in terms of para 9 above. No costs.

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(S. R. ADIGE)
VICE CHAIRMAN (A).

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