

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-2891/97  
MA-2947/97

(2)

New Delhi this the 17th day of September, 1998.

Hon ble Shri S.P. Biswas, Member(A)

Smt. Kanchan Lata,  
W/o Sh. Lakshmi Chand,  
R/o S-9/467, R.K. Puram,  
New Delhi-22. .... Applicant

(through Sh. Karan Singh, advocate)

versus

1. Union of India through  
Secretary, Ministry of  
Urban Development,  
Nirman Bhavan,  
New Delhi.
2. Director of Estates,  
Directorate of Estates,  
Nirman Bhavan,  
New Delhi.
3. Asstt. Director of Estates,  
Directorate of Estates TB(A),  
Nirman Bhavan,  
New Delhi.
4. The Secretary(Land&Bldg.),  
Govt. of NCT Delhi,  
Vikas Bhavan,  
I.P. Estate,  
New Delhi. .... Respondents

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

ORDER(ORAL)

The applicant, a lady teacher under the Delhi Administration is before us seeking relief in terms of issuance of writ/certiorari to the respondents that the quarter, originally allotted in the name of her husband, be regularised in her name. The applicant also seeks that the order dated 21.7.97 passed by Respondent No.2 rejecting her appeal for allotment of general pool accommodation in her name be quashed.

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2. Under the Allotment of Government Residences (General Pool in Delhi) Rules 1963. claimant seeking allotment has to be an employee working in an eligible Government organisation. It is seen that as per the directions of the respondents under O.M. dated 27.12.91, the allotment of accommodation from the general pool to the teachers and other staff working in schools under the Directorate of Education (Delhi Administration) is not permissible. The order also stipulates the following:-

"After careful consideration, it has now been decided that the teachers and other staff of schools of Delhi Administration will not be eligible for initial allotment (in turn as well as adhoc) from general pool in Delhi. However, the allotments already made to them by the Directorate of Estates will not be disturbed and will continue to be treated as lawful allotments.

It has also been decided that change allotment in the same type will also be admissible to teachers and other staff of schools of Delhi Administration who are already allottees of general pool accommodation.

It has also been decided that any consequent benefit which may accrue to an allottee under Allotment Rules on account of his being in occupation of general pool accommodation will also be admissible to teachers and other staff of schools of Delhi Administration, e.g. they will be allowed retention after cancellation of allotment admissible under SR 317-B-22 temporary allotment for marriage purposes, ad-hoc allotment/regularisation on retirement/death ground to their wards in case such ward is employed in an eligible office. It is however, clarified that the benefit of ad-hoc allotment/regularisation on retirement/death ground will not be admissible to the ward of such allottees in case the ward is employed as a teacher or in the staff of a school under Delhi Administration."

3. The applicant applied for regularisation of the quarter (No.S-8/467 R.K. Puram) in proper form on 9.7.97 after her husband retired from eligible Central

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Government services w.e.f. 31.3.97. The request for regularisation has been rejected by orders dated 21.7.97 on grounds that the applicant is not working in eligible office. Accordingly, Respondents No.2 & 3 directed the applicant to vacate the quarter by 31.7.97 to avoid eviction!

4. The applicant has not quoted any rule that covers her case for regularisation. She has only cited three examples in support of her claim. I find that all the three cases can be distinguished on the basis of facts as well as legal provisions. In the case of Smt. Pushpa Devi Passi, the Additional District Judge Delhi held that cancellation of the quarter duly allotted in her name after one month from the date of resignation of the allottee was illegal under SR 317B. That apart, the retrospective application of the order of Respondent No.2 dated 27.12.91 was held to be invalid in the eyes of law. Facts in Pushpa Devi's case is totally different. This case, therefore, does not support the applicant's case.

The case of Smt. Maya Dubey was decided by a Bench of this Tribunal in OA-201/94 on 15.12.94. That was the case where the allottee in D-1 house in Rabindeer Nagar died in harness. Smt. Maya Dubey, wife of the deceased Central Government employee was eligible for allotment of accommodation from Delhi Administration. Her eligibility for allotment from general pool was not considered by the Tribunal. However, since she was very senior enough with her date of priority being 11.9.61 and was likely to get an allotment from Delhi Administration very shortly, the Tribunal allowed her to stay in the

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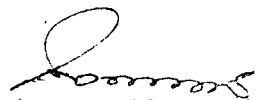
house till she could get an alternative accommodation from Delhi Administration. The decision in that case turned on the basis that Smt. Maya Dubey was an employee of 33 years standing experience and Delhi Administration was already considering her case favourably on the strength of her seniority. In the instant case, the applicant is a senior only by 9 years and is not in the zone of consideration for any allotment from Delhi Administration because of her low date of priority.

The last case cited by the applicant relates to the case of Dr. A. Golmai and Another Vs. U.O.I. & Anr. decided by this Tribunal on 4.9.92 in OA-1249/91. In that case the original allottee Mrs. Shakuntla, got a regular allotment of D-11/15, Park Street from General Pool under the Director of Estates, retired and sought regularisation of the house in the name of her husband. This was initially resisted by the Director of Estates. Subsequently, when Dr. N.C. Joshi Hospital was declared as an eligible office for the purpose of allotment from the general pool, the Director of Estates took another plea that the prospective allottee being owner of a house in Janak Puri is ineligible for regularisation of the aforesaid Park Street accommodation. That was the case where Delhi Administration had even offered an equivalent house to the general pool in exchange. In the present case, neither the applicant is in an eligible office nor has Delhi Administration come out equivalent and matching offer to compensate the loss of the house from the general pool. This case also does not lend any help to the applicant's case.

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5. The learned counsel for the applicant then argued that atleast on the pattern of Maya Dubey's case, this Tribunal could issue directions to the respondents to regularise the R.K. Puram house and if that is not permissible then atleast to allow her to retain the house for some time. It is well settled in law that no mandamus can be issued by the Tribunal/Court directing to do a thing which is forbidden in law. If any authority is required for this purpose, it is available in the case of B.M. Panikar Vs. M.P.S.R.T. Corporation (AIR 1987 SC 29).

6. In the light of the detailed position aforesaid, the application has no merit and is accordingly dismissed.

  
(S.P. Biswas)  
Member (A)

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