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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 735 of 1997

New Delhi, this the 28th day of August, 1997

Hon'ble Mr. N. Sahu, Member (Admnv)

1. Dharam Pal R/o B/430, Sarojini Nagar,
New Delhi-110 021.

2. Mr. A.K. Agarwal, R/o B-430, Sarojini
Nagar, New Delhi - 110 021 - APPLICANTS

(By-Advocate - Shri George Paracken)

Versus

1. Director, Directorate of Estates,
Nirman Bhavan, New Delhi - 110 011

2. Medical Superintendent, Safdarjung
Hospital, New Delhi - 110 016 - RESPONDENTS

(By Advocate - Shri R.V. Sinha)

J U D G M E N T

By Mr. N. Sahu, Member (Admnv)-

The applicants are aggrieved by the order dated 2.1.1997 (Annexure-A) issued by respondent no.1 rejecting the case of applicant no.2 for alternative accommodation as not covered under the allotment rules. There was a similar order dated 25.2.1997 (Annexure-B) from the Office of the Medical Superintendent, Safdarjung Hospital, New Delhi, respondent no.2, who stated that applicant no.1 in occupation of General Pool accommodation is a different pool from that of applicant no.2 who is entitled to only hospital pool accommodation.

2. Brief facts are that applicant no.1 was allotted Quarter No.B-430, Sarojini Nagar, New Delhi on 29.5.1976. He retired from Government service on 31.7.1996. After allowing a post retirement concessional period of four months, this allotment was cancelled in his name w.e.f.1.12.1996. Applicant

no.2 is son of applicant no.1 and is working as a Technician in Blood Bank of Safdarjung Hospital. He applied for regularisation of the same accommodation in his name or allotment of an alternative accommodation. It has been made very clear by the respondents that the non-ministerial staff of Safdarjung Hospital are not eligible for General Pool accommodation. Therefore, they rejected the claim of applicant no.2. Eviction proceedings were initiated against applicant no.1.

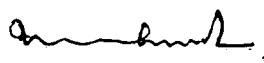
3. The applicants' claim is that the respondents have not been continuing the earlier practise of inter-pool exchange in similar circumstances to avoid hardships faced by the employees. They cited a number of instances at para 5.4 of the Original Application, stating that the respondents have made inter-pool exchanges and allowed one of the spouses to retain the accommodation after retirement etc. of the other spouse. They also cited an instance where this inter-pool exchange has been practised in respect to Lady Hardinge Medical College. The applicants, therefore, assail the treatment of Safdarjung Hospital as ineligible for such interpool exchange.

4. I have carefully considered the submissions made by rival counsel. In this case applicant no.2 working in Safdarjung Hospital in a non-ministerial cadre is not eligible for General Pool accommodation. Only ministerial staff of Safdarjung Hospital are eligible for General Pool accommodation. I have

asked the learned counsel for the applicants to show me the rule which obliges respondent no.1 to grant applicant no.2 either alternative accommodation or regularisation of accommodation allotted to his father during his service. Let us assume that both father and son are entitled to General Pool accommodation. Certainly the son can pray only for an alternative accommodation because he is not eligible for the type of accommodation occupied by his father. The son can apply and await orders. There may be many constraints with the respondents in allotting an accommodation. There may be other applicants in the queue who await for orders to come and yet do not succeed in getting an accommodation. There is no rule which mandates that alternative accommodation should be immediately provided to the son. There is also no rule which obliges the Government to allow the father, who retired from service, to continue in this accommodation, even after the concessional period after retirement, simply on the ground that the department could not provide the son an alternative accommodation. The instructions only say that efforts will be made to give a lower type of accommodation within a reasonable time. That does not ipso facto guarantee the father to continue in the accommodation paying the normal licence fee after the concessional period till his son is allotted the alternative accommodation. No such rule has been shown to me. In this case there is absolutely no scope for consideration. The father and the son belong to two different categories and inter pool exchange is not a

rule that we can compellingly force the respondents to undertake. That depends on several considerations. Simply because some time past there were exchanges between the hospital pool and the General Pool it does not follow that for all times to come, the Court can compel that such exchanges should invariably take place. These are matters which require consideration of several aspects of availability of accommodation, waiting list of employees in each pool and above all the decision of the authorities whether such exchange is expedient in the circumstances. There is no rule that compels the authorities to make inter pool exchange a permanent feature of allotment. There is no such question in this case because applicant no.2 being a non-ministerial staff is not entitled to general pool accommodation.

5. In the result, the Original Application is dismissed. The parties shall bear their own costs.


(N. Sahu)
Member (Admny)

rkv.