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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O. A. No. 302 of 1994.

New Delhi, this the 28th day of October, 1994.

Hon'ble Mr. B.N.Dhondiyal, Member(A)

Smt. Anarjit Kaur Jaswal,
working as a Lower Division Clerk in DG(AIR)
News Service Division, of All India Radio, New Delhi.
Akashwani Bhavan, Karol Bagh, New Delhi.

... .. Applicant.
(through Mr B.Krishna, Advocate).

vs.

1. Union of India, through the
Directorate of Estates,
4th Floor 'C' Wing,
Nirman Bhavan, New Delhi.
 2. The Estate Officer(Shri P.M.Mishra)
Director of Estates,
4th Floor 'B' Wing,
Nirman Bhawan, New Delhi. ... Respondents.
- (through Mr V.S.P.Krishna)

ORDER (ORAL)

Hon'ble B.N.Dhondiyal, Member(A)

The applicant Smt. Anarjit Kaur Jaswal is staying in Government residence No.E-405, Karol Bagh, Dev Nagar, New Delhi, which was allotted in the name of her husband Shri R.S.Jaswal, who died in harness on 16.08.1992. She was given an appointment to the post of L.D.C. w.e.f.26.02.1993. She is entitled for allotment of Type-B accommodation whereas the accommodation occupied by her is of Type-C. After joining the Government service, she submitted an application for allotment of government residence on 25.03.1993. The respondents have stated that as many as three times, allotments were made of type-B quarter to her for which no response was

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received from the applicant. This is contested by the applicant, who states that the first allotment was never communicated to her. The second allotment dated 14.04.1994 was accepted but when she went to take the possession, she was asked to deposit a sum of Rs.12,626/- on account of damages in respect of previous accommodation. She could deposit only a sum of Rs.6,000/- and requested the authorities to defer the payment of the balance amount. The third allotment made on 28.6.1994 was also accepted by her but this was also subject to the condition that of payment of Rs.10,495/- in addition to Rs.6000/- already paid by her. Meanwhile, the allotment of quarter allotted to her husband was cancelled w.e.f.15.08.1993 vide letter dated 13.11.1992. Eviction order has been passed vide letter dated 24.01.1994 (Annexure A-1). The applicant is, however, continuing to occupy that accommodation under the interim orders passed by this Tribunal on 4.02.1994.

2. Heard the learned counsel for the parties and have gone through the records. The learned counsel for the applicant has drawn my attention to the government instructions contained in the Compendium of the Allotment of Government Residences (General Pool in Delhi), Rules, 1963, issued by the Ministry of Urban Development. The Director of Estates O.M. dated 24.4.1982 provides that for the period beyond the date of appointment of the eligible ward in an eligible office, the licence fee will be charged as under:

- "a) Standard licence fee under FR 45-A or pooled standard licence fee under FR 45-A whichever is higher, from the date of appointment of the ward till the orders regarding the condition that the submission of applications for regularisation/alternative allotment is made within 30 days of the appointment of the ward."

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3. As regards the date of regularisation the O.M. dated 9.11.1987 provides that the date of regularisation should be from the date of cancellation in the case the eligible dependent is already in Government service, and is entitled for regularisation and not from the date of issue of the orders which was the practice being followed till now. However, the O.M. dated 1.02.1989 provides that the date of regularisation of accommodation in such case should be with effect from the date of appointment of the eligible dependent if he has been given employment within one year of the date of death of the allottee officer as provided under the rules. In case the date of appointment of the dependent is prior to the date of cancellation, regularisation may be made effective from the date of cancellation. The learned counsel for the Respondents has stated that as the alternative accommodation allotted was not accepted by her, she is liable to pay market rate of licence fee.

4. A perusal of the allotment letters shows that these are conditional on the applicant paying the damage charges for unauthorised accommodation of Type-C quarter allotted to her late husband, even though a part payment of Rs. 6000/- was made by the applicant.

5. In view of the facts and circumstances of this case, this O.A. is disposed of with the following directions:

- i) Fresh allotment of a suitable type-B quarter shall be made to the applicant. While making the allotment, provisions regarding restriction of allotment in the aforesaid

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O.M. dated 9.11.1987 will be kept in mind, so far as locality is concerned. *Sw*

- ii) The respondents shall not insist on the applicant depositing the assessed damage rent before occupying the alternative accommodation. For this purpose, the standard licence-fee as mentioned in the O.M. dated 24.04.1982 shall be charged before handing over the possession to the applicant.
- iii) The applicant shall vacate the present Type-C accommodation immediately after the ^{allotment *Sw*} ~~eviction~~ of alternative accommodation. In case she fails to do so, within a period of three weeks from the date of allocation, it will be open to the respondents to cancel the fresh allotment and resume the eviction proceedings.
- iv) The respondents shall re-examine the case regarding liability of the applicant to pay damage charges for the type-C accommodation allotted to her late husband in the light of the afore-mentioned OMs dated 24.4.1982, 9.11.1987 and 1.02.1989, ^{*Sw*} ~~referred to above~~. The amounts found to be paid by the applicant will be paid by her. However, she would be given the facility of payment in convenient instalments.
- v) Till such time, an alternative accommodation is allotted and occupied by the applicant, she will not be evicted from the present premises.

No costs.

/sds/

B.N. Dhurdiyal
(B.N. Dhurdiyal)
Member (A)