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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 1190/94

New Delhi: 7th day of ~~September~~ OCTOBER, 1994.

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

Shri A.K.Goyal,
s/o Shri B.B.L.Goyal,
working as Asstt.Engineer in P & D Unit,
Directorate General, All India Radio,
Akashvani Bhawan, New Delhi and
residing at UCD-6, Radio Colony,
Kingsway, Delhi-9Applicant.

By Advocate Shri B.Krishna

Versus

1. Union of India, through the
Director of Estates,
Directorate of Estates,
4th Floor, 'C' Wing ,
Directorate of Estates,
Nirmen Bhavan, New Delhi.
2. The Director General,
Directorate General, All India Radio,
(P & D Unit)
Akashvani Bhawan, Sansad Marg,
New Delhi-110 001.
3. The Superintending Engineer,
High Power Transmission,
All India Radio,
Kingsway,
Delhi-9.Respondents.

By Advocate Shri M.M.Sudan.

JUDGMENT

In this application, Shri A.K.Goyal, has prayed for quashing of letter dated 4.3.94 (Annexure 1-A) rejecting the applicant's request for General Pool accommodation and for a direction to retain the present residence bearing No. UCD-6, Radio Colony, Kingsway, Delhi, till the allotment of the alternative accommodation from the General pool materialises. He will not be made liable to pay any sort of penal rent/ damage rent/ market rent etc.

2. Shortly stated, the applicant was allotted Quarter No. UCD-6, Radio Colony, Kingsway,

Delhi by respondent No.3, Superintending Engineer, High Power Transmission, AIR, Kingsway, Delhi as he was among the Shift Duty Staff who was required to perform duties in odd hours and in emergencies at a short notice. On 5.6.93, he was shifted from High power Transmission, Kingsway to P & D Unit of the All India Radio under the Director-General, AIR. He states that although he applied for retention of the said quarter till allotment of the alternative quarter from the General Pool or alternative accommodation, he was informed that the allotment of the said quarter in Radio Colony stood cancelled after expiry of two months from the date of his relieving. After several representations, he was finally allowed to retain the quarter upto 4.2.94 on payment of concessional rent. It appears that ^{on 15.6.93} he applied to the Director of Estates, respondent No.1, as well as filed representations later praying for accommodation from the General Pool to enable him to vacate his present accommodation. In reply the respondents sent the impugned letter dated 4.3.1994 (Annex. A-1-A) informing him that it had not been possible to accept his request as the staff of High Power Transmission, AIR, Kingsway were not eligible (the word 'not' between the words 'are' and 'eligible' in the letter dated 4.3.1994 appears to have been omitted through oversight) for General Pool accommodation. The fact that the applicant had been transferred from the High Power Transmission Unit in Kingsway to the P & D Unit, Aakashvani Bhawan, New Delhi does not appear to have been noticed by the Directorate of Estates (respondent No.1).

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3. Although the Directorate of Estates (Respondent No.1) is a party in this O.A., no reply has specifically been filed by them. A reply has, however, been filed on behalf of all the three respondents by the Superintending Engineer, High Power Transmission, AIR, Kings way, in which the applicant's claim has been contested. It has been stated that the applicant, now not being on the shift duty staff working at the High Power Transmission Unit, is no longer entitled to retain the accommodation in Radio Colony, Kingsway, and is also not entitled to out-of-turn allotment from the General Pool in view of the contents of the Directorate of Estates' Memo dated 14.3.85 (Annexure-A12) which states that in the case of officers who are occupying accommodation ear-marked for particular posts or particular categories of employees such as essential maintenance staff, no ad hoc allotment should be made and they have to wait their turn.

4. I have heard Shri Krishan for the applicant and Shri Sudan for the respondents.

5. The first ground taken by Shri Krishan is that rejection of the request for alternative accommodation is arbitrary, as the request is well covered by the Govt. Policy and the applicant has an actionable claim for alternative accommodation and to continue in the existing accommodation till the same is provided. In this connection, Shri Krishan relies upon S.R.-317-B-25 which

provides that "Government may for reasons recorded in writing relax all or any of the provisions of the rules in this Division, in the case of any officer or residence or class of officers or type of residences. Reliance has also been placed on the Directorate of Estates' letter dated 8.9.1969, extracts of which are reproduced below which states that "the officers who are occupying the accommodation in other pools on transfer to the offices eligible for general pool accommodation may be considered for allotment of accommodation in the next below type in general pool, unless they are eligible for their entitled category by seniority."

6. Secondly, it has been argued that the applicant is being discriminated against, because under similar circumstances other Government employees have been allotted general pool accommodation on ad hoc basis by the Directorate of Estates, although by the Tribunals order, without their having to await their turn. In this connection, Shri Krishan has filed copies of a number of judgments on which he relies.

7. I have considered the matter carefully.

8. Admittedly, the applicant has been shifted from HPT Kingsway, under the AIR to the P&D Unit of the AIR. The applicant's department has not changed, and as accommodation he was allotted/while posted at HPT Kingsway from the AIR residential pool, it is not understood why he cannot be allotted alternative accommodation, within the AIR residential pool itself, to enable him to

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vacate his present accommodation. In this connection, the AIR appears to have its own pool of accommodation allotment to which is controlled by the AIR (Allotment of Residential Quarters) Rules, 1983, a copy of which has been filed. Under sub-rule (4) S.R. 318-XXVI-T-4 of these Rules governing the distribution of accommodation, it appears that the available quarters at a particular station are distributed into two pools, i.e., (i) Shift Duty Pool, and (ii) General Pool. In other words, the AIR has a pool earmarked for persons on shift duty, such as the applicant, as also a general pool which is quite different from the general pool administered by the Directorate of Estates. Sub-rules (6) & (7) of S.R. 318-XXVI-T-4 governing the distribution of accommodation also provide quarters in the Shift Duty Pool shall be allotted only to shift duty staff on the basis of priority dates and quarters in the general pool shall be allotted to other members of the AIR staff on the basis of priority date, provided that shift duty staff shall be entitled to quarters in the general pool also on the basis of priority dates. Under the circumstances, the applicant, now that he is no longer on shift duty, would be eligible for general pool accommodation from the AIR residential pool on the basis of his priority date.

9. In so far as the various judgments cited by Shri Krishan are concerned, viz., O.A. No. 577/92 - Ram Kanwar vs. Union of India & Anr. decided on 1.5.1992; O.A. No. 2000/93 - Shri Mohd Rehmat vs. UOI decided on 10.2.1994; O.A. No. 1114/93 - Suresh Prasad vs. UOI decided on 6.4.1994; O.A. No. 2801/92 - Shri C.P. Singh vs. UOI decided on 7.7.1993; O.A. No. 1210/92

Rakesh Kumar vs. UOI decided on 18.12.1992; O.A. No. 1214/92 - E.G.Radhakrishnan vs. UOI decided on 3.8.93; and O.A. No. 1963/91 - Jai Ram Yadav vs UOI decided on 18.12.1991, these judgments are not strictly relevant to the facts of this case, because in all those cases, the applicants who were allotted accommodation from their own departmental pool, were subsequently transferred or absorbed in other departments and became eligible for accommodation from the general pool controlled by the Directorate of Estates. Furthermore, in none of those cases were the contents of Directorate of Estates' memo dated 14.3.1985 noticed.

10. In the present case, as mentioned above, the applicant's department has not changed and he continues to be in the AIR. It is only that he has been shifted from the HPT Unit in Kingsway to the P & D Unit, both of which are part of the AIR.

11. In this connection, from the ordersheet dated 3.6.1994, it is noted that the applicant is relying on the Directorate of Estates' memo dated 14.3.1985 containing the minutes of the meeting dated 4.2.1985. The applicant has interpreted this memo in his favour, so as to direct respondent No.1 (Directorate of Estate) to allot him a quarter of the next below type from the general pool controlled by the Directorate of Estates on the ground that the applicant was occupying departmental pool accommodation and has now been transferred to another office which is covered by general pool allotment. This interpretation of the

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Directorate of Estates' memo dated 14.3.1985 in so far as it relates to the present case, appears to be erroneous, because firstly, it has been specifically stated that where officers are occupying accommodation in the departmental pool especially earmarked for essential maintenance staff, they will not be eligible for the concession of ad hoc allotment. Secondly, this circular would seem to apply in cases where officers in a department having their own pool of accommodation are transferred from that department and have to be provided alternative accommodation from the general pool controlled by the Directorate of Estates. In the present case, the applicant continues to be in the AIR, and there has been no transfer from one department to the other. Hence, the contents of this memo do not help him.

12. Under the circumstances, this application is disposed of with a direction to respondent No.2 to consider allotting the applicant alternative accommodation from the AIR general pool on the basis of his priority date, in accordance with sub-rule (7) S.R. 318-XXVI-T-4 of the AIR (Allotment of Residential Quarters) Rules, 1983. It will be open to the respondents to allow the applicant to continue in the quarter presently under his occupation till such time as alternative accommodation from the AIR general pool is provided to him, ^{or in} for such time as the respondents No.2 and 3 may consider appropriate in view of the applicant's circumstances, subject to payment of

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rent for the period beyond the period of authorised occupation as per rules. No costs.

S. R. Adige
(S. R. ADIGE)
MEMBER (A)