

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A.No.427/94

(7)

New Delhi, this the 19<sup>th</sup> day of September, 94

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

Shri Balwan Singh  
son of Shri Muley Singh  
Peon in Directorate of Income Tax  
(Organisation & Management)  
RK Puram, New Delhi &  
r/o 4/46, DMS Colony, Hari Nagar,  
New Delhi.

...Applicant

(By Advocate Shri B.Krishna)

Vs.

Union of India, through:

1. Director of Estates,  
Directorate of Estates,  
Nirman Bhawan, New Delhi.

2. The General Manager,  
Delhi Milk Scheme,  
Ministry of Agriculture,  
West Patel Nagar, New Delhi.

...Respondents

(By Shri Vijay Mehta for Res.No.2)  
Shri V S R Krishna for Res.No.1

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

The applicant was working as Junior Plant Operator in the Delhi Milk Scheme and he was allotted government accommodation bearing No.4/46, D.P.S. Colony, Hari Nagar, New Delhi. He was declared surplus and appointed as peon on 23-11-1993 in the Directorate of Income Tax (Organisation & Management) New Delhi. It is his case that he is entitled for an alternative accommodation from the general pool in lieu of the departmental pool accommodation in his occupation belong to respondent No.2. The applicant submitted an application for accommodation on 21-1-1994 for such allotment which has not taken place. In the meantime the respondent No.2 has threatened dispossession of the accommodation and levy of damages @ Rs.1546/- per month vide letter dated 9-12-1993 (An.A1 to the O.A). This O.A. has

been filed seeking the following reliefs:-

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(a) The respondent No.1 may be directed to allot an alternative accommodation to applicant's entitled or next below type of accommodation from the general pool on out-of-turn basis at the earliest possible in order to enable the applicant to vacate the present accommodation belonging to the D.M.S. pool.

(b) The respondent No.2 may be directed to allow the applicant to continue to occupy the present resident bearing No.4/46, DMS Colony, Hari Nagar, New Delhi till such time the applicant is allotted an alternative accommodation from the General Pool and such continuance may be allowed on normal terms.

(c) No damages/penal rent/market rent etc. may be charged from the applicant in respect of the present accommodation in his occupation bearing No.4/46, DMS Colony, Hari Nagar, New Delhi.

2. Respondent No.2 in reply has not denied the allotment of quarter from the DMS Pool <sup>/but has stated that</sup> <sub>/after</sub> release of the applicant from D.M.S the quarter is required for essential staff working in the Milk Scheme. Rules permit retention of quarter only for two months on normal licence fee and hence charging of damage rent is in order.

3. Respondent No.1 has stated that officials who are occupying departmental pool accommodation and are transferred to offices eligible for general pool

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accommodation are considered for ad hoc allotment of alternate general pool accommodation in lieu of departmental pool accommodation. It has been further submitted that the request of the applicant for ad hoc allotment for alternate general pool accommodation has not been received by respondent No.1, though the applicant had applied for allotment of general pool accommodation in his turn.

4. The learned counsel for the applicant relied on the orders passed by this Bench of the Tribunal in O.A.No.2331/93 decided on 25-8-94 allowing similar reliefs in a similar case. In that O.A. the Director of Estates had also conceded that the officials occupying departmental pool of accommodation and transferred to offices eligible for general pool accommodation are considered for ad hoc allotment of alternative general pool accommodation in lieu of departmental general pool accommodation. True extract of Directorate of Estate Endorsement No.12035(7)/69/POL dated 8-9-69 was also filed as annexure to the reply therein. The extracts produced read as under:-

"Extracts of Govt. of India Instructions below S.R.317-B-25:

11. ALLOTMENT OF ACCOMMODATION ON AD HOC BASIS TO THOSE WHO ARE REQUIRED TO VACATE DEPARTMENTAL POOL ACCOMMODATION.

Officers who are occupying accommodation in other pools on transfer to offices eligible for General Pool may be considered for allotment of accommodation in the next below type the General Pool unless they are eligible for their entitled category by seniority.

(D.E.Endt.No.1203(7)/69/POL dated 8-9-69)."

5. A perusal of the above indicates that the applicant in this U.A.(427/94) is equally eligible for alternative general pool accommodation. The respondent No.1 has taken the plea that the applicant was not allotted the D.M.O. departmental pool accommodation as an essential staff and hence his request

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for alternative accommodation cannot be considered. But in the endorsement dated 8-9-69 quoted supra no such conditions have been imposed.

6. The learned counsel for respondent No.1 then referred to the orders passed by this Tribunal in O.A.No.2212/92 and OA No.2214/92 decided on 22-7-93 where staff on transfer from Principal Director of Audit to the Post and Telecommunication Audit Office were not allowed similar benefits. The orders therein were based on ~~the~~ different circumstances. There is no reference to the endorsement of 8-9-69 of the Director of Estates mentioned supra.

7. In the circumstances and following the discussion at the time of disposal of L.A.No.2331/93 by this Bench of the Tribunal on 25-8-94, the undermentioned orders are passed.

- (a) That the respondent No.2 shall not evict the applicant from the quarter No.4/46, DMS Colony, Hari Nagar, New Delhi and only recover the normal licence fee till the time the applicant is allotted a residence by the respondent No.1 i.e. Director of Estates and the impugned orders are quashed.
- (b) That the respondent No.1 is directed to allot to the applicant on the first available vacancy a quarter of eligible type from the General Pool to the applicant, who shall give an undertaking that within a week of occupation of the said quarter he will vacate the quarter No.4/46, DMS Colony, Hari Nagar, New Delhi and in case of default, he will be liable to pay damages/penal rent at the extant revised rates irrespective of the direction given in para 1 above.

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8. Interim order already passed on 2-3-94 not to dispossess the applicant from quqiter No.4/46 Hari Nagar, DMs Colony, New Delhi shall be continued till the allotment of alternative accommodation by respondent No.1. No costs.

P. J. De-ol

(P.I. THIRUVENKA DAM)  
Member (A)

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