

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 438/94

(10)

New Delhi this the 5th Day of September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Shri A. Sowrirajan,
S/o late Shri Adaikalaswamy,
Stenographer Grade 'D',
Department of Posts.
X2, Dak Bhawan,
D.E. Section (Ground Floor),
Parliament Street,
New Delhi-110 001

.... Applicant

(By Advocate: S.M. Garg)

Vs.

1. Union of India through
Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. Director of Estates,
Ministry of Urban Development
Nirman Bhawan,
New Delhi.

... Respondents

(By Advocate: Shri VSR Krishna)

O R D E R

Hon'ble Shri J.P. Sharma, Member (J)

The applicant is employed as Lower Division Clerk in the Ministry of Communications since November 1985. He has also been working since 8.10.1987 as Stenographer Grade 'D' on ad hoc basis in the Department of Posts. One of the children of the applicant is suffering from Epilepsy since birth which had lead to Mental Retardness and loss of speech. The applicant, therefore, requested the Hon'ble Minister, Urban Development for allotting him an eligible type of quarter. The OM issued by the Government of India on 9.1.1986 empowered the Hon'ble

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Minister to make out of turn allotment. There is also a power under SR 317-B-25 to relax the rules in case of any officer or residence or class of officers or type of residences.

2. The grievance of the applicant is that in spite of the Hon'ble Minister's order for allotment on next available vacancy and the residence also made an adhoc allotment by letter dated 12.8.1992, the applicant has not been earmarked any government accommodation.

3. He has prayed for the grant of the relief that the respondents be directed to issue order of allotment in continuation of the sanction dated 12.8.1992. He has also claimed other reliefs even for declaring OM dated 9.1.1986 whereby the cases of grave illness do not include other than pulmonary TB, Cancer and said OM be declared unconstitutional.

4. On notice the respondents filed the reply that the respondents have issued a circular for out of turn allotment on medical grounds. Such circulars covers cases of government servants/family members suffering from Cardiac ailment Pulmonary TB and Cancer only for ad hoc allotment. Request for out of turn allotment on such ground is scrutinised by the Special Accommodation Committee. The request of the applicant cannot be covered under these instructions. It is however, conceded by the respondents that the Hon'ble Minister by the order dated 2.7.1992 directed for allotment of Type 'B' accommodation on next available basis to the applicant on his request on compassionate ground and not under OM dated 9.1.1986. It is also admitted by the respondents that a sanction by the letter dated 12.8.1992

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was also issued to the applicant but no allotment letter has been issued.

5. The applicant has also filed rejoinder reiterating the same facts.

6. Heard the learned counsel for both the parties at length. In view of the order of the Hon'ble Minister Urban Development and the sanction of Type 'B' quarter in favour of the applicant in August, 1992, it behoves the respondents Directorate of Estate to allot Type 'B' Quarter to the applicant. The respondents were directed to file a chart or some record to show that since August 1992, the applicant couldn't be adjusted on N.A.V. On the other hand the learned counsel for the respondents had placed a file of various applicants for out of turn allotment, however it does not serve the purpose. The respondents couldn't show that the applicant could not be adjusted in any of the vacancy of Type 'B' quarter since August 1992. Merely because there is some practice of giving out of turn allotment when five normal allottees are given the accommodation on their turn is not substantiated by any document on record.

7. It is not necessary to deal with the various other points raised by the applicant as well as record the vires of OM of 9.1.1986. The respondents have admitted that the allotment was made on compassionate ground. If it is so then it was all the more necessary to accommodate the applicant at the earliest and Hon'ble Minister has rightly ordered NAV allotment in favour of the applicant in August, 1992. This order of allotment has been exhibited in a sanction of a Type 'B' quarter but all the three years the applicant couldn't be given any government accommodation.

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In view of the facts and circumstances, the application is allowed with the direction to the respondents to allot Type 'B' accommodation to the applicant in compliance with their own letter dated 12.8.1992 within a period of three months from the date of receipt of the copy of the order. Parties are directed to bear their own costs.

J.P. Sharma

(J.P. Sharma)
Member (J)

Mittal