

Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.2021/94  
M.A.No.3465/94

New Delhi this the 28th Day of February, 1995.

Hon'ble Mr. B.K. Singh, Member (A)

Shri Randhir Singh,  
S/o Sh. Govind Singh,  
R/o Qr.No.41, I-type Civil Line Police,      Applicant  
Delhi.

(through Sh. D.P. Avinashi, advocate)  
versus

1. Union of India  
through the Commissioner of Police,  
PHQ, I.P. Estate, MSO Building,  
New Delhi.

2. Dy. Commissioner of Police  
HQ-III Delhi 'AG', PHQ,  
I.P. Estate, 8th Floor,  
MSO Building,  
New Delhi.

Respondents

(through Sh. Raj Singh, advocate)

delivered by Hon'ble Mr. B.K. Singh, Member (A) ORDER

This application under Section 19 of the  
Administrative Tribunals Act, 1985 has been filed against  
order No.6089-6104/QAC-AC-III/PHQ dated 26.08.1994.

The brief facts of the case are that the  
applicant applied for allotment of government quarter  
No.51, Type-II, P.S. Civil Lines, Delhi. At the  
relevant time, the applicant was junior and as such the  
quarter was allotted to A.S.I. Satya Pal who was senior  
to him. In order to accommodate him, he was advised to  
accept Type-I quarter. He accepted the allotment and  
accordingly government quarter No. 41, Type-I, P.S.  
Civil Lines was allotted to him. Subsequently, he  
applied for the allotment of quarter No.60, Type-II, P.S.  
Civil Lines, Delhi which could not be allotted to him due  
to some dispute going on. The allottee of quarter No.60,

Type-II, P.S. Civil Lines retired and his son and daughter applied for the said quarter which was not allotted to them as the past record of service of the retiree had been indifferent. It is admitted that the said quarter No.60, Type-II, P.S. Civil Lines was allotted to Head Constable Krishan Kumar who happens to be the son-in-law of the retiree.

As regards government quarter No.58, Type-II, P.S. Civil Lines, Delhi, the same was allotted to Head Constable Yatender Kumar vide order No.6089-6104/QAC/AC-III/PHQ dated 26.8.1994 on out of turn/compassionate grounds by the then DCP/HQ-III, i.e. competent authority for allotment of government quarter, after considering the case sympathetically. As per S.O.No.3/91, the Allotment Officer is empowered to consider and allot government quarter to any police officer in deserving cases.

Aggrieved by the order dated 26.8.1994, this application was filed before the Hon'ble Tribunal on 29.9.94.

The reliefs prayed for in the O.A. are:-

"(a) to quash and set-aside the impugned order dated 26.08.1994 passed by the respondent No.2, so far as the serial No.8 is concerned in the impugned order.

(b) to direct the respondents to allot the accommodation No.58, Type-II, P.S. Civil Lines in the name of the applicant on vacation;

(c) to direct the respondents not to handover the physical possession of the accommodation No.58, Type-II to the HC Yatinder Kumar, No.560(Security)."

On notice the respondents filed their reply contesting the application and grant of reliefs prayed for. An interim order was also passed to maintain the status quo on 23.11.1994 in M.A.No.3465/94 filed by the applicant.

I heard the learned counsel of both the parties.

The facts of the case are admitted by both the parties. The learned counsel for the applicant argued that grave injustice has been inflicted on the applicant by not allotting Quarter No.58, Type-II, P.S. Civil Lines to the applicant. He described the act of the respondents as a miscarriage of justice and against the rules and regulations of allotment. It is true that the case of Sh. Yatinder Kumar was considered by the respondents on compassionate ground for an out of turn allotment. It is also admitted that prior to this Sh. Yatinder Kumar had been occupying Quarter No. 17, Type-I, P.S. Civil Lines. The learned counsel for the applicant argued that respondent No.2 ignored the



seniority and the well established rules and regulations of the allotment rules and showed favoritism to the Head Constable who is not only junior to the applicant in service but also occupies status much below the applicant and that the applicant is entitled to the allotment of Type-II accommodation No.58 on the basis of seniority and status and eligibility. By ignoring the seniority, eligibility and the status of the applicant in allotting Quarter No.58 to the Head Constable Yatinder Kumar, the respondent No.2 has occupied illegally and as such, he prayed for quashing of this order in the name of justice and fair play.

As against this, the learned counsel for the respondents fairly conceded that the applicant is entitled to Type-II quarter and even Type-II is one stage below his entitlement. He also stated at the Bar that Type-II quarter would be made available to the applicant in some other locality since a Type-II quarter is not readily available in P.S. Civil Lines. The said quarter No.58, Type-II had since been allotted to Head Constable Yatinder Kumar and he argued that the competent authority is fully empowered to take into consideration the facts and circumstances of a government servant and to make an allotment on out of turn basis in deserving cases. The rules and regulations issued by Ministry of Urban Development, Department of Works & Housing also envisages out of turn allotment to compassionate appointees whose parents have died in harness. Although the rule envisages that only 20% of the accommodation will be available for out of turn allotment on the basis of seniority to compassionate appointees but the ground reality is that

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80% quarters are being allotted on an out of turn basis and hardly 20% quarters go to deserving candidates on seniority basis standing in queues of government servants in waiting list but the allotments on an out of turn basis on the sole discretion of the authorities is on the increase and the rules in this regard are not being adhered to.

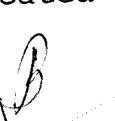
The power to allot a quarter on compassionate ground to someone is vested in the competent authority who allots the government quarter. The allotment and cancellation of government quarters is not within the domain of the Tribunal. It is strictly within the domain of the executive. In the instant case, the DCP who is the competent authority has applied his mind to the facts and circumstances of the cases and by his order dated 26.8.94 which is under challenge before the Tribunal has allotted the said quarter No.58, Tupe-II, P.S. Civil Lines to Yatinder Kumar although he is only a Head Constable. The power is vested in him and this is not under challenge before the Tribunal. The question whether he exercised his power judiciously or improperly is under challenge before the Tribunal. Where the power is vested in the competent authority to allot or not to allot a quarter or to allot a quarter to X or to allot another quarter to Y based on the peculiar facts and circumstances of the case, no direction can be issued to the competent authority to allot quarters strictly on the basis of seniority and on merits. This court is not competent to decide public litigation petitions for allotting quarters strictly on the basis of seniority. In the instant case, on instructions from the

(b)

respondents, the learned counsel for the respondents agreed to allot him a Type-II quarter in any other locality since that type of quarter is not available in P.S. Civil Lines. No government servant can claim as a matter of right allotment of quarter in a particular locality. This is the prerogative of the competent authority to allot a quarter to a government servant on the basis of eligibility in any locality where the quarter is available. The Tribunal is not competent to issue a direction to the effect that a Type-II quarter should be allotted to the applicant in P.S. Civil Lines alone. The learned counsel for the respondents has fairly conceded that he is entitled to Type-III quarter. If a Type-II quarter is not available in P.S. Civil Lines, the respondents are directed to consider the question of a Type-II quarter or Type-III quarter to which the applicant is entitled in any other locality. This will meet the ends of justice. As already stated, no government servant is entitled to claim quarter befitting his entitlement and status in a particular locality. Thus, none of the reliefs prayed for can be allowed by the Tribunal since these are not within the domain of the Tribunal and these fall strictly within the domain of the competent authority who is the allotting authority. Allotment and cancellation are never within the domain of the court.

The O.A. is dismissed and the interim order passed on 23.11.94 is vacated but without any order as to costs.

/vv/

  
(B.K. Singh)  
Member (A)