

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 1175/2000

New Delhi, this the 19/12 day of December, 2000

Hon'ble Mr. Justice V.K. Majotra, Member (A)

In the matter of :-

Sh. Rajkumar (O-1/9)  
S/o Sh. T.R. Sharma  
R/o Qtr. No.17-B, Type-II  
P.S. Kashmiri Gate  
DELHI.

....Applicant.

(By Advocate : Sh. Shyam Babu)

V E R S U S

1. Govt. of NCT of Delhi  
through its Secretary  
5, Shamnath Marg,  
Delhi - 110054
2. The Commissioner of Police, Delhi  
Police Headquarters  
I.P. Estate.
3. The Deputy Commissioner of Police  
Police Headquarters (I) Delhi  
Police Headquarters  
I.P. Estate, New Delhi.
4. W/HC Rekha (962/Communication)  
K-3/2, Type-I  
Andrews Ganj  
NEW DELHI.

....Respondents.

(By Advocate : Sh. Ram Kawar with Sh. B.B. Raval)

O R D E R

Shri V.K. Majotra

The applicant who is an Inspector in Delhi Police and getting monthly emoluments of more than Rs.8000/- is occupying Government quarter No. 17-B type-II, P.S. Kashmiri Gate, Delhi, below his entitlement. He claims that under Clause V of Delhi Police (Allotment, Occupation and Vacation of Residential Accommodation) Rules, 1998 herein-after called, Rules of 1998, he is entitled to type IV occupation in accordance with his monthly emoluments. According to him, the monthly emoluments of W/HC Rekha

(respondent No.4) are lower than Rs.3424/- per month and, therefore, she is entitled to type-I accommodation only. As the Kashmiri Gate accommodation was not suitable to the applicant, he requested for a change, laying his preference for a quarter No. A-1 type-II, P.S.Tilak Marg, New Delhi. Applicant's request was accepted by the competent authority and he was allotted the aforesaid accommodation vide order dated 2-5-2000 (Annexure-B). The applicant submitted his acceptance for allotment of the aforesaid accommodation vide his letter dated 8-5-2000. According to the applicant, the earlier allotment P.S. Saraswati Vihar was cancelled. Respondent No.4 presently occupying accommodation at K-3/2 type-I, Andrews Ganj, New Delhi is alleged to have exercised undue influence on the authority and got HC-8, type-II, P.S. Tilak Marg, New Delhi allotted in her favour which was earlier allotted to the applicant. The applicant was allotted another accommodation which was below his entitlement i.e. 5.1, type-II, P.S. Ashoka Police Lane on vacation (Annexure-A). The applicant has sought cancellation of allotment of accommodation A-1, type-II, P.S.Tilak Marg, New Delhi to respondent No.4 being arbitrary/unjustified as the respondent No.4 is junior to the applicant and applicant's consent for allotment of quarter in Ashoka Police Lane has not been obtained.

(Q)

2. In their counter, the respondents have stated that respondent No.4 is a divorcee having a 6 year old daughter. She was earlier allotted a type-I accommodation at Andrews Ganj. As she <sup>s</sup>stays alone

with her minor daughter in the said premises, she wanted a more convenient accommodation. She was allotted type-II accommodation bearing No. HC-8 type-II, P.S. Tilak Marg, New Delhi on compassionate ground. As the said premises was already in possession of a person who was not going to vacate the same till his retirement in 2004, she had to be given an alternative accommodation. According to the respondents, respondent No.4 is drawing a basic salary of Rs. 3880/- + all statutory allowances per month. Thus her total emoluments make her eligible for allotment of type-II accommodation. The applicant at present is occupying type-II accommodation at Kashmiri Gate. He wanted transfer of residence. He claims entitlement to type-IV accommodation. According to the respondents, he is not entitled to type-II accommodation in which category there is a running shortage.

(10)

3. I heard the learned counsel for both sides and perused the material on record.

4. Sh. Shyam Babu, learned counsel for the applicant reiterated the points made by the applicant in the OA and contended that type-II accommodation at P.S. Tilak Marg having been allotted to him and accepted by him cannot be cancelled and instead allotted in favour of a junior person, namely, respondent No.4. He further stated that the applicant had not consented for accommodation now allotted to him in Ashoka Police Lane.

5. Learned counsel for the respondents contended that the applicant has concealed the fact that when the applicant was allotted quarter in Saraswati Vihar, he neither sent his acceptance nor did he collect occupation slip. Allotment in his favour was cancelled vide order dated 6-6-2000 and he was debarred for a period of one year from further allotment of Govt. accommodation. Shri Shyam Babu clarified that the applicant was debarred from allotment of type-III quarter and not type-II quarter. The counsel for the respondents stated that under the rules only one below category can be allotted. When the applicant is entitled to type-IV quarter, he cannot be allotted two types below his entitlement.

6. Considering her total emoluments, we find that respondent No.4 is entitled to accommodation allotted to her on compassionate ground and under the Rules.

7. The applicant was debarred from allotment for accommodation for one year effective from 6-6-2000. On the basis of his emoluments, his basic entitlement is for type-IV accommodation. Under the rules, he can normally be allotted one type below his entitlement i.e. he could be allotted type-III accommodation. According to the applicant's counsel, the applicant was debarred for one year from 6-6-2000. It would certainly be irregular to allot the applicant type-II accommodation for which there is congestion already. On the basis of the total emoluments of Respondent No.4 and her peculiar circumstances, there is nothing wrong in allotting her A-1 type-II P.S.

Tilak Marg. The applicant had not taken possession of A-1, type-II, P.S. Tilak Marg accommodation and when it was allotted to him irregularly, the same being two types below category, which is impermissible, we do not find anything wrong with the cancellation of allotment of the same and its allotment in favour of the applicant.

(2)

8. Having regard to the above reasons and in the facts and circumstances of the case, we do not find any merit in the OA which is dismissed accordingly. No Costs.

V.K.Majotra  
(V.K.Majotra)  
Member (A)

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