

Central Administrative Tribunal
Principal Bench

OA 345/2000

New Delhi this the 17 th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Smt. Ganeshi Bai,
W/o Shri Ramesh,
R/o 61/8, MH Lines,
Delhi Cantt-10.

... Applicant.

(By Advocate Shri S.S. Tiwari)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block, New Delhi.

2. Station Commander, Delhi Station,
Station Headquarters,
Delhi Cantt-10.

3. Estate Officer,
Delhi Station,
Station Headquarters,
Delhi Cantt-10.

... Respondents.

(By Advocate Shri Rajinder Nischal)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has impugned the validity of the order dated 28.7.1999 passed by the respondents asking her to vacate the Government Quarter No.61/8, M.H. Lines and to give vacant possession of the same to the authorities (Annexure 'A').

2. The brief facts of the case are that the applicant states that she had joined Government service as Safaiwala on 24.9.1988. She was initially appointed at Bhopal and later posted at Military Hospital, Delhi Cantt in the same capacity. She had made an application on 21.6.1990 for allotment of Government accommodation of the

B.

10

type she was eligible. Shri S.S. Tiwari, learned counsel has submitted that the applicant had only applied for regular allotment of the Government accommodation and not for any allotment on temporary basis. She was allotted the aforesaid quarter in Delhi Cantonment on temporary basis for a period of six months. Learned counsel has contended very vehemently that as there is no provision for temporary allotment of the Government quarter, as done by the respondents on 8.12.1993, she has to be considered as having been allotted the same on regular basis in accordance with the Rules. According to him, the respondents are trying to take advantage of their own mistake, in spite of the fact that she had applied for accommodation on regular basis and not on temporary basis as per SRO 308/78.

3. The Tribunal by an ad interim order dated 22.2.2000 had restrained the respondents from evicting the applicant from the Quarter allotted to her by order dated 8.12.1993, subject to the conditions mentioned therein regarding charging of quantum of rent. This order has been continued.

4. A copy of the order/judgement dated 15.5.1999 mentioned in the impugned order dated 28.7.1999 has been submitted by the learned counsel for the applicant, which is placed on record. In paragraph 5 of this judgement, it is stated that Accommodation No. T.41/14, Sanyat Line, has been allotted to the respondent (present applicant) by letter dated 31.7.1998, but she has not taken the alternate accommodation and no reasons have been given. Learned

12

counsel has submitted that the alternate accommodation is not upto the mark and, in any case the respondents could not have given the applicant the allotment of the quarter, as contained in the order dated 8.12.1993 for a temporary period of six months. He has also submitted in the rejoinder that certain other juniors to the applicant, namely, Shri Pratap Singh and Mrs. Champa Bisht, who had joined service in 1989, have been allotted the Government accommodation in Delhi Cantonment which, therefore, shows that the respondents have not acted fairly or in accordance with the relevant Rules.

5. I have perused the reply filed by the respondents and heard Shri Rajinder Nischal, learned counsel. The respondents have stated that in terms of SRO 308/78, the contention of the applicant that they do not have any powers to give a temporary allotment is incorrect. Learned counsel has submitted that the order dated 8.12.1993, allotting the Government accommodation had been passed for a period of six months out of sympathetic considerations, which the applicant had accepted at that time. He has submitted that at that time the applicant had also given an undertaking in which it has been stated that the allotment has been done purely on temporary basis for three months which was extended for another three months and that if she does not vacate the said premises, she will be liable to pay damage rate of rent and for eviction under the PPE Act, 1971 (Annexure II). The respondents have also submitted that she was not senior enough in the seniority list to be eligible for allotment of married accommodation on regular basis, but the same had been allotted to her for a short period of six months on temporary basis on

12

sympathetic grounds and the applicant cannot now turn round and state that the order of 8.12.1993 has to be treated as regular allotment merely because she had applied for regular allotment. The respondents have also stated that as the applicant is well aware that she was allotted the quarter on temporary basis only, she cannot at this stage assail the same. They have also stated that no junior similarly situated as the applicant has been allotted ~~the~~ Government quarter. Learned counsel for the respondents has submitted that Ms. Champa Bisht is a Group 'C' employee while the applicant is a Group 'D' employee and in the case of Shri Pratap Singh, the applicant could not categorically state based on any documents, that he was also a Group 'D' employee like the applicant.

6. A faint submission was made by Shri S.S. Tiwari, learned counsel that the applicant, who belongs to ~~a key~~ "key" category of persons should be allotted the quarter on priority basis. As this was not pressed and there are no averments to this effect in the O.A., the same is rejected.

7. After careful perusal of the pleadings on record and the submissions made by the learned counsel for the parties, there appears to be no justifiable grounds to interfere in the matter. In the impugned order dated 28.7.1999 read with the judgement announced by the competent authority on 15.5.1999, it is seen that the applicant had been given an alternate accommodation No.T-41/14, Sanyat Line, which she has not accepted. The contention of the learned counsel for the applicant that this is not a suitable accommodation and on that basis the impugned order should be quashed is without any basis

18.

^{12. and}
~~respondents~~ cannot be accepted. The order dated 8.12.1993

clearly states that the allotment of Quarter No. 61/6 Type-I, M.H. Lines, Delhi Cantt to the applicant has been done purely on temporary basis for a period of six months. The applicant had also given an undertaking that she would vacate the quarter in December, 1994. The contention of the applicant that the temporary allotment of the quarter, in question is to be treated as regular allotment merely because she had made an application for such allotment on regular basis, cannot be accepted. The ground taken by the respondents that as a married accommodation was lying vacant at that time and the applicant, who had been transferred from Bhopal to Delhi had applied for allotment of the quarter, they had taken a sympathetic decision in her favour to allot her a quarter for a short period of six months on temporary basis, cannot now be taken advantage of by the applicant on the ground that there is no such provision in SRO 308/78 for temporary allotment.

8. The contention of the respondents that the applicant is not senior enough in the seniority list to be eligible for allotment of the quarter on regular basis has not been successfully controverted by the applicant. The contentions that juniors to the applicant, namely, Shri Pratap Singh and Mrs. Champa Bisht, who have joined service in 1989 had been allotted the Government quarter and hence she is also entitled for such allotment as she had joined service in September, 1988 are rejected because admittedly one of them, Mrs. Champa Bisht is a Group 'C' employee. The status of Shri Pratap Singh has not been

(A)

mentioned in the O.A. and during the arguments, learned counsel for the applicant has not been able to show as to how that person is similarly situated as the applicant.

9. Taking into account the facts and circumstances of the case and the provisions of SRO 308/78, the contentions of the applicant that since the respondents have issued her the temporary allotment order in 1993, she will be entitled ~~her~~^{to} for allotment of the Government married accommodation, permanently which is inconsistent with the Rules and instructions is rejected. Accordingly, the claim of the applicant for a direction to the respondents to regularise the quarter allotted to her and charge only normal rent after its cancellation for the relevant period are rejected. As there is no merit in this application, O.A. is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'