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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.368/2000

New Delhi, this the 3rd day of May, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Sh. Krishan Kumar, S/O Sh. Ram Das, Aged about 38 years, working as J.I.O. (II) 'General' in I.B., M/O Home Affairs, New Delhi.
2. Sh. Ram Das, S/O Sh. Bakhta Mal, Aged about 60 years, Retd. as Sales Tax Officer in Govt. of N.C.T. of Delhi.

Both R/O 89/1, Sec.I, Pushp Vihar,
M.B.Road, Saket, New Delhi.

.....Applicants.

(By Advocate: Mr. S.S.Tiwari)

VERSUS

1. Union of India through Secretary, M/O Urban Development, Nirman Bhawan, New Delhi.
2. Estate Officer & Deputy Director (Litigation), Type 'C', Directorate of Estates, M/O Urban Development, Nirman Bhawan, New Delhi.
3. Dy. Director (Rent), Directorate of Estates, M/O Urban Development, Nirman Bhawan, New Delhi.

...Respondents.

(By Advocate: Mr. D.S.Jagotra)

O R D E R (ORAL)

By Hon'ble Mrs. Lakshmi Swaminathan, M (J):

The applicants are aggrieved by the order passed by the respondents dated 9.8.99 read with the order dated 22.9.99.

2. The brief facts of the case are that applicant No.2, who was working with the Govt. of N.C.T. of Delhi, has retired from service w.e.f. 30.11.97. Applicant No.2 is in service with the Ministry of Home Affairs, Intelligence Bureau. From the letter issued from the office of respondent-2 dated 27.7.98 (Annexure-B), it is seen that they have taken a decision

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to sanction ad hoc allotment of Type-B accommodation in M.B.Road or nearby areas without any further restriction to applicant 1 on the condition that he clears all the arrears of rent pertaining to the quarter which had earlier been allotted to his father from the General Pool. According to the applicants, they have not received the allotment of the quarter, stated to ^{have been} ~~be~~ issued by the respondents, of a Type-B accommodation to them earlier on 3.8.98. Learned counsel for respondents has submitted that although the respondents admit that applicant 1 is entitled for ad hoc allotment of quarter in accordance with the relevant rules and instructions, the same cannot be given possession unless and until he clears the rent of arrears due to their over-staying in the earlier quarter which ^{has} ~~had~~ been allotted to his father, i.e., applicant 2.

3. In the letter from applicant 2 addressed to the respondents dated 23.6.99, he has stated, inter alia, that he had been sanctioned ad hoc allotment of Type "B" accommodation in M.B.Road vide respondents letter dated 27.7.98. He has admitted the receipt of the letter of sanction which ~~has~~ been sent to the Department, but he has stated in that letter that the allotment letter has not been issued so far. Learned counsel for applicant has drawn my attention to the certificate issued by the concerned Officer of the Ministry of Home Affairs dated 9.8.99 (Annexure-D), in which that Office has clearly certified that no letter of ad hoc allotment of residential accommodation to applicant 1 has been received in ^{the} ~~that~~ office (Intelligence Bureau) and no such letter has also been handed over to him till that date.

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4. Sh. S.S. Tiwari, learned counsel has contended that unless and until the allotment letter has been received by the applicants, which has not been shown by the respondents, mere sanction for allotment without issuing the allotment letter, will not entitle them to charge arrears of market rent for the earlier quarter allotted to his father, who had retired from service in November, 97. He has submitted that till the allotment letter is sent and received by the applicants, he could not have also shifted from the earlier accommodation. In any case, learned counsel has submitted that as it was the fault of the respondents not to have issued the possession slip for the M.B.Road Quarter earlier, the applicants cannot be made liable to pay market rent for the intervening period. In the circumstances, he has prayed that taking into account the facts and circumstances of the case, a direction may be given to the respondents to give the possession slip for the quarter allotted to applicant 1 in M.B.Road so that the applicants can vacate the Type 'C' quarter without any further delay, subject to the payment of arrears of market rent, if any, provided he is liable in accordance with the rules and instructions.

5. I have heard learned counsel for respondents. He sought further time to file his reply. However, it is seen from the order sheets that sufficient time has already been granted to the respondents to file reply and hence, he made his submissions orally. He has submitted that unless and until the applicants clear their arrears of market rent for the Type 'C' quarter allotted to the

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father of applicant 1, they cannot be given possession of the residential accommodation in M.B.Road, which stands allotted to applicant 1.

6. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. From the documents placed on record by the applicants and in particular Annexures 'C' & 'D', I find merit in the submissions made by Sh. S.S.Tiwari, learned counsel that the respondents have not sent, or in any case, applicant 1 has not received through his office the allotment of the residential accommodation in his name till at least 16.8.98. It is also relevant to note that the respondents themselves have stated that they have decided to sanction ad hoc allotment of Type-B accommodation in M.B.Road or nearby areas to applicant 1, subject to recovery of the arrears of market rent for the quarter allotted to his father. No documents have been placed on record by the respondents as proof to show that they have either despatched or applicant 1 has received the earlier allotment letter stated to have been issued in August, 99. The respondents cannot also ignore the certificate issued by the Office where applicant-1 is working, which clearly states that they have not received the allotment of the residential accommodation in his name in the Office and no such letter has been handed over to the applicant till that date. In the facts and circumstances of the present case and in public interest, the prayer of the applicants to be given the possession slip for the quarter allotted to applicant 1 in M.B.Road

immediately, appears to be reasonable and unexceptional. This is, however, subject to applicants agreeing to pay the arrears of market rent in respect of the Type-C accommodation which was in possession of applicant-2, the retired Govt. servant, in accordance with the relevant rules and instructions.

8. In the result for reasons given above, the OA succeeds and is allowed with the following directions:

i) The impugned order dated 9.8.99 is quashed and set aside;

ii) Respondents are directed to issue the possession slip for the quarter in M.B.Road which they had already allotted to applicant-1 by letter dated 22.9.99, without insisting on prior clearance of the market rent due on the Type-C quarter.

iii) Respondents may, however, proceed in the matter after giving a show cause notice to the applicants with regard to recovery of the rents due for the intervening period in respect of the Type-C accommodation, in accordance with the rules and instructions and taking into account the observations made above. The applicants should also be given a personal hearing by the competent authority before the final order with regard to the rent/market rent is passed.

No order as to costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member (J)

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