

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 644/2000

New Delhi, this the 3rd day of May, 2001

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

P. Venkatesan,
S/o Shri Ponnusamy,
R/o D-II/250, Vinay Marg,
New Delhi

..... Applicant

(By Advocate: Shri S.C. Sexena)

V E R S U S

1. Union of India through
The Secretary, Ministry of Urban Affairs &
Employment,
Nirman Bhawan,
New Delhi - 11
2. The Director of Estates,
Directorate of Estates,
Nirman Bhawan, New Delhi-110011
3. Superintendent A/cs
Govt. of India,
Directorate of Estates,
T-E Section, Nirman Bhawan,
New Delhi - 110 011
4. Secretary,
Ministry of Consumer Affairs & Public
Distribution,
Department of Consumer Affairs,
Krishi Bhawan,
New Delhi-110001

... Respondents

(By Advocate: Mrs. Sumedha Sharma)

O R D E R (ORAL)

By S.A.T. Rizvi, Member (A):

Heard the learned counsel on either side and
perused the material placed on record.

2. The applicant in the present OA made an
application for out of turn allotment of government
accommodation in March, 1990. The same was allowed by

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the then Minister on 8th May, 1990. In follow-up, a letter dated 17.5.1990 was issued by the Directorate of Estates, making an ad hoc allotment of residential accommodation in favour of the applicant. The accommodation allotted by the aforesaid letter was "D-II without restriction of floor/locality". However, no house in particular was made available to the applicant for quite sometime. On 30.1.1992 again the then Minister passed an order allotting Flat No. D-II/250, Vinay Marg in favour of the applicant. However, a formal letter was issued by the Directorate of Estates on 3.2.1992 allotting a D-II Type accommodation to the applicant on NAV basis. Reference herein has again been made to the then Minister's order of 8.5.1990. In the event, the applicant took over physical possession of house No.D-II/250 Vinay Marg (Chanakyapuri) on 19.2.1992. Clearly the applicant succeeded in securing the allotment of the same house which was allotted to him by the then Minister on 30.1.1992.

3. The applicant is impugned by the respondents' letter dated 3.4.2000 placed at Annexure A-1 by which damages of Rs.56,820/- has been levied on the applicant in consequence of certain decisions taken by the Supreme Court in cases of out of turn allotments. The learned counsel appearing on behalf of the applicant has placed reliance on the decision rendered by this Tribunal on 1.7.1997 in OA No.1249/97 with connected cases. According to him, the facts and circumstances of the case dealt with in those OAs are

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similar to the facts and circumstances revealed in the present case. In those cases also, as in the present case, allotment letters were issued prior to 1.4.1991 and possession of allotted accommodations was taken thereafter. In respect of all such cases, according to the view held by this Tribunal, damages cannot be levied. The present OA is, therefore, wholly covered by the aforesaid decision.

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4. The learned counsel appearing for the respondents has on the other hand relied on the ad-hoc allotment letter dated 3.2.1992 placed on record at Annexure R-2. According to him, the present case is, therefore, a case in which allotment has been made after 1.4.1991 and thus viewed the damages can be levied. I am not inclined to agree with the contention raised by the learned counsel. The aforesaid letter of 3.2.1992 makes a pointed reference to the Directorates of Estates's earlier letter of 17.5.1990 and goes on to provide for the allotment of a Govt. accommodation on NAV basis unlike in the earlier order of 17.5.1990 in which no such basis was indicated. The aforesaid letter of 3.2.1992 has obviously been issued in continuation of the letter of 17.5.1990 and, on this basis, it will be correct to hold that the allotment order was issued in favour of the applicant prior to 1.4.1991. I am bound by the judgement rendered by the Division Bench of this Tribunal in the aforesaid OAs on 1.7.1997 and, therefore, quash the said letter dated 3.4.2000 issued by the respondents insofar as it seeks to recover the damages/enhanced licence fee from the applicant.

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5. In the aforesaid circumstances, the OA is allowed. The impugned letter dated 3.4.2000 at Annexure A-1 is quashed and set aside. The applicant is entitled to all the consequential benefits. No costs.



(S.A.T. RIZVI)
MEMBER (A)

(pkr)