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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2328/89

DECIDED ON : 30-7-93

M.P. Saxena

... Applicant

Vs.

Director of Estates

... Respondent

CORAM :

THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Applicant present in person

Shri P. P. Khurana, Counsel for Respondents

J U D G M E N T

In this O.A. the applicant, Shri M. P. Saxena, who retired as Senior Personal Assistant from the Department of Food on 31.1.1989, has challenged the order dated 3.6.1989 passed by the Directorate of Estates intimating him that the Government have decided to make allotment of ^{type-B} residential accommodation from the general pool to his daughter, Km. Neelam Saxena and he has been asked to pay damages or any higher rate of licence fee for the quarter No.829, Laxmi Bai Nagar, New Delhi retained by him after his retirement. He has requested that the respondents be directed to allot the alternative accommodation to his daughter and that he may be allowed to retain the existing accommodation on normal rent till then.

2. The respondents have stated that though Km. Neelam Saxena was sanctioned ad-hoc allotment of type-II accommodation, there are 38 persons senior to her in the waiting list. The allotment of accommodation to the dependents of a Government servant is only a concession given by the Government and retention of accommodation beyond the period of retirement is subject to payment of damages as per rules.

The applicant also filed an M.P. before this Tribunal (No. 2011/93) intimating that the respondents have started proceedings against the applicant for recovery of market rent at the rate of Rs.1200/- per month from 1.9.1989 to 26.12.1990. Thus, an excess of Rs.17,167/- has been charged from him which should be refunded.

3. I have gone through the records and heard the learned counsel for the respondents and the applicant who was present in person. It is a fact that the applicant had continued to be in occupation of quarter No. 829, Laxmi Bai Nagar, New Delhi, under an interim order passed by this Tribunal on 20.12.1989. It is also a fact that as soon as a type-B quarter was allotted to his daughter he vacated this quarter. This is not a case where the provisions of ~~SR 37-B-225~~^{bn} of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, can be applied strictly. In writ petition No. 918/91 the Supreme Court has observed in its order dated 16.12.1992 that "the respondents will not charge from the petitioner rent in excess of the rent which was being charged when the deceased was in service. The petitioner will clear up the arrears of rent calculated on the above basis."

4. In view of these circumstances, I hold that the applicant having continued in the quarter under the protection of the interim^{order} of this Tribunal shall also be entitled to pay only the normal licence fee for that period. The excess amount paid by him shall be refunded to him within a period of three months from the date of communication of this order. This application accordingly stands disposed of. No costs.

B. N. Dhoundiya
(B. N. Dhoundiya)
Member (A)