

| Date | Office Report | Orders  |
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|      |               | <p data-bbox="712 356 855 420"><u>8/5/88</u></p> <p data-bbox="1108 361 1202 401"><u>NK</u></p> <p data-bbox="579 462 1582 606"><u>Pursue</u> W. Saint Lue for his application<br/>name for his <u>unpublished</u></p> <p data-bbox="860 675 1599 782">Order pronounced in his Court<br/>do 11</p> <p data-bbox="1186 978 1500 1165">(NV lensman)<br/>John. Nambur<br/>8/5/88</p> |

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 883  
T.A. No.

1989.

DATE OF DECISION 8.9.89

Hira Lal & Ors. Applicant (s)

Shri Sant Lal, Advocate for the Applicant (s)

Versus

Union of India & Ors. Respondent (s)

Shri M.L.Verma, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Administrative Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. To be circulated to all Benches of the Tribunal ? ✓

JUDGEMENT

(Judgement of the Bench delivered by  
Hon'ble Shri N.V. Krishnan, Member (Admn.))

The grievance made out in this application relates to the treatment of the occupation of the P & T quarter No.D-63, Moti Bagh-I, New Delhi for the period from 1.12.1987 to 15.4.1988 as being unauthorised.

2. The facts of the case can be noticed briefly: -

2.1. The first applicant was <sup>an</sup> Assistant Postmaster to whom the aforesaid quarter was allotted. He retired on 31.7.1987. In accordance with the rules on the subject, he was permitted occupation of the house till 30.11.1987. The allotment stood cancelled on the expiry of this period.

2.2. Before this, the second applicant who is the son of the first applicant, got appointment as Postal Assistant from 10.1.84 and he was residing with his father in the same quarter and he was not drawing any house rent allowance. He submitted an application in July, 1987 for the allotment of the aforesaid quarter in his name, after the retirement of his father.

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2.3. It is admitted that as the second applicant was found to satisfy the conditions laid down in this behalf, the said quarter was allotted in favour of the applicant No.2 with effect from 16.4.1988 (Annexure A-1).

2.4. Proceedings were thereafter initiated to recover damage charges from the first applicant in respect of his unauthorised occupation of the said quarter from 1.12.1987 to 15.4.1988 (Annexure A-3).

2.5. The applicants have, therefore, prayed that for the period from 1.12.1987 to 15.4.1988, the occupation may be regularised by directing the respondents to allot the house to applicant No.2 with effect from 1.12.1987 and to give them all consequential benefits flowing from such regularisation.

3. The respondents have filed a counter affidavit in which the main point raised is that it is not denied that with effect from 1.12.1987, the occupation of the house by applicant No.1, in whose favour it was originally allotted, was unauthorised. In regard to <sup>the</sup> application made by the second applicant, in pursuance of the concession available to the children of retired government servants (vide Ministry of Works and Housing, Directorate of Estates, No.12035(7)79/Pol, II dated 1.5.1981), the respondents state that such an application was received on 7.8.1987, The reason why the house was allotted to him with effect from 16.4.1988 only, is stated in the reply as follows:

"But his application dated 7.8.1987 was quite incomplete and as such the case remained under correspondence and it was only on 8.4.88 when all the documents, complete in all respect, were received in the office of respondent No.2. The case was processed for orders for regularisation of quarter No.D-63, Moti Bagh in favour of applicant No.2 and it was allotted to him w.e.f. 16.4.88".

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4. I have heard the learned counsel on either side and perused the records. The applicant has filed a rejoinder stating that there was not a single letter of communication to him asking him to rectify the defects in his application dated 7.8.1987. The learned counsel for the respondents was directed to produce for my perusal any such letter to the applicant. One or two letters which were shown from the file, were really letters addressed to the Head of the Office under whom applicant No.2 was working, stating that certain missing particulars should be supplied by that office. It must be said in fairness to the learned counsel appearing on behalf of the respondents that, after examining the files brought by the departmental representative, he readily agreed that there was no evidence to show that there was any letter addressed to the applicant requiring him to rectify the defects in the application or supply of any additional information. The respondents do not have any other reason for not allotting the said quarter to the applicant No.2 w.e.f. 1.12.1987.

5. It is seen that the second applicant applied for the allotment of quarter on 7.8.1987 i.e. more than three months before the allotment made in favour of applicant No.1 was due to expire on 30.11.1987. This should be considered <sup>as</sup> a sufficient time for the respondents to have taken a decision in regard to the allotment of the quarter. There is no dispute that applicant No.2 was entitled to the concession under circular dated 1.5.1981 referred to in para 3 (supra). Therefore, even if there was some correspondence in this regard, there was no reason why the allotment should not have been made w.e.f. from the date from which the allotment made to his father (Applicant

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No.1) ~~was~~ lapsed. It is not the case of the respondents that the applicant No.2 gave any false particulars or that a special relaxation of rules was needed. Prospective allotment could, perhaps, have been justified in such circumstances. <sup>u</sup> That situation <sup>u</sup> ~~it is~~ <sup>does</sup> not obtained here. .

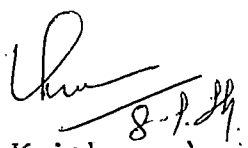
6. I am of the view that considering the fact that the applicant No.2 was entitled to an allotment in his favour and the fact that he had applied for such an allotment in time and that no blaches have been attributed to him, the respondents ought to have allotted the said quarter in his favour w.e.f. 1.12.1987. Therefore, this application deserves to be allowed and accordingly it is ordered, with the following directions:

(a) The respondents are directed to modify the order dated 29.4.1988 (Annexure-I) such that the quarter D-63, Moti Bagh, New Delhi is allotted in favour of the applicant No.2 w.e.f. 1.12.1987, subject to the other provisions in this behalf under the existing rules and instructions relating to such allotment.

(b) In consequence of the direction at 'a' above the respondents are directed not to treat the occupation of the said quarter by the applicant No.1 as being unauthorised

(c) The respondents are directed to give the applicant all consequential benefits flowing from the directions at 'a' and 'b' above.

7. With these directions, this application is allowed. There will be no order as to costs.

  
( N.V. Krishnan )  
Administrative Member.  
8.9.89