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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-1713 of 1987

Date of decision: 13.5.1991

General Secretary, Videsh Sanchar Nigam Ltd.
Employees Union

Applicant

Vs.

Union of India & Others

Respondents

PRESENT

Shri L.D. Adlakha, counsel for the applicant.

Shri S.M. Rattan Pal, proxy counsel for Shri G.D. Gupta,
counsel for Respondents 1 to 3.

Shri P.P. Khurana, counsel for Respondent No. 4.

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Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri P.C. Jain, Member (A).

(Judgment of the Bench delivered by Hon'ble Shri Justice
Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

The applicant, Videsh Sanchar Nigam Ltd. Employees' Association, is an Union, and this O.A. has been filed under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as Act) by its Secretary against the Respondents seeking the reliefs:-

1. Annex. A-1 dated 10th July, 1986 issued by Respondent No. 4 be annulled and accommodation be directed to be allotted to the members of the Applicant Union.

2. Respondent No. 4 be directed to restore allotment of general pool accommodation to Shri J.R. Soren and other employees.

2. According to the O.A., Videsh Sanchar Nigam Ltd. (hereinafter referred as Nigam) has been created by the Deptt. of Communication, Govt. of India, a Govt. of India enterprise.

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The applicants are employees of Overseas Communication Service which was converted from Overseas Communication Service into Government owned Public Sector Corporation known as Videsh Sanchar Nigam Ltd. which was slated to operate from 1st April 1986 as international telecommunication service of the country and it was to have its office at Bombay. Vide Annex. 3, dated 19th March 1986, all international telecommunication services handled by C.C.S. stood transferred to Nigam on existing terms and conditions. They were thus treated on deputation on foreign service to Nigam. Nigam was to finalise the terms and conditions of its employees at a later date and they were to exercise option, ad-interim arrangement was made for working from 1.4.86. One J.R. Soren, a member of the applicant Union was given an allotment of accommodation from general pool who submitted his acceptance, was informed by Director of Estates, Ministry of Urban Development, Government of India, by letter dated 20.9.87 that employees of the Nigam will not be allotted accommodation from 1.4.86 onwards as per instructions issued by the Policy Cell dated 10.7.86 (Annex. A-4). According to the applicant, it was, by Resp.No.4, unjust denial of right of the members of the Nigam because all employees of the Nigam who were in occupation of the general pool accommodation in Bombay, Calcutta, Madras and Delhi were allowed to retain their accommodation for a period of two years w.e.f. 1.4.86 vide letter No. 1/6/86-Admn. dated 12.8.86. According to the applicant, this clearly shows discrimination, violation of Article 14 of the Constitution of India. Since the members of the Applicant Union are on deputation and Nigam is yet to formulate its terms and conditions of service of its employees; all employees are governed by the terms and conditions of the parent department. Thus, the denial of accommodation to Shri J.R. Soren was malafide and unjust. Hence this O.A.

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3. Respondent No. 4 filed their counter reply but not Respondent Nos. 1, 2 and 3. Respondent No. 4, in their counter, controverted the contents of the OA and inter-alia contended that they have revised the guidelines for allotment of general pool accommodation to the employees of the Public Sector Undertakings/statutory bodies/semi-government organisations and Government servants going on deputation to such undertakings by O.M. dated 24th October, 1985, Annex.1. Those guidelines are approved by the Cabinet Committee on Accommodation to the employees of Public Sector Undertakings. They are:-

1. In view of the acute shortage of residential accommodation in general pool for allotment to officers working in eligible offices, it would not be advisable to permit retention of accommodation/allotment of accommodation by employees of such ineligible organisations.
2. In future the organisations concerned may be advised to hire suitable private accommodation and make the same available to Govt. officers who are allottees of general pool accommodation and who are going on deputation.
3. Where services of government officials are made available to Corporations/Undertakings/organisations, at the time of initial constitution, such of the Government officers who are allottees of general pool accommodation may be allowed as a special case to retain the accommodation for a period of two years.
4. In all cases market rate of licence fee should be recovered from the organisations who may recover normal licence fee from the officials.

These, in brief, are the guidelines. Respondent No. 4 further contended that with the conversion of Overseas Communication Service into Government owned Public Sector Undertaking w.e.f. 1.4.86, the answering Respondent had for two years only permitted

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the Nigam employees and after 2 years no fresh allotment to them can be made. According to them, in case of Shri Soren, as he was an employee of Nigam, his allotment was cancelled. Furthermore, in refusing him and others of the Nigam, Respondent No. 4 has followed only O.M. dated 10.7.86 and since then no allotment to anyone has been made.

4. We have heard Shri L.D. Adlakha, the learned counsel for the applicants and Shri P.P. Khurana, learned counsel for the respondents. The Tribunal by its order dated 27.11.87 granted the ad-interim relief as prayed for, after admitting the O.A., that the quarter allotted to the applicants should not be allotted to any body else. After notice and after hearing the parties, a Bench of this Tribunal by order dated 8.9.88 concluded that no case has been made out for continuance of interim relief which was granted on 27.11.87. This order was passed on the undertaking given by Respondent No. 4 at the bar that in case the applicants succeed in the main application, they will make the allotment of the similar type of accommodation to the applicants.

5. Annex. A-3 dated 19th March 1986 was issued by Government of India, Ministry of Communication, Sanchar Bhavan, to the Director General, Overseas Communication Service, Videsh Sanchar Nigam, by which Govt. owned public sector corporation, O.C.S., known as Videsh Sanchar Nigam Ltd. was set up. Accordingly, by this document interim arrangements were made w.e.f. 1.4.86. Besides other terms, the employees working in the O.C.S. and transferred on deputation on foreign service terms to the corporation, shall continue to be governed by existing rules, regulations and pay scales till such time they are absorbed finally by corporation on the basis of options and sever all connection with Government. Perusal of Annex. 5 dated 12.8.86 indicates that the employees of the Nigam who are in occupation of general pool accommodation in Bombay, Madras, Calcutta and Delhi shall retain accommodation for a period of two years w.e.f. 1.4.86.

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It further provides that no fresh allotment/change of accommodation will be made to the employees of Videsh Sanchar Nigam Ltd. after that date. Thus, those transferred to Videsh Sanchar Nigam Ltd. are to avail the like facilities only for a period of 2 years w.e.f. 1.4.86. Similar intentions have been conveyed in Office Order of Videsh Sanchar Nigam dated 17.11.86. These documents filed by the applicants, nowhere indicate that those transferred/absorbed in Videsh Sanchar Nigam Ltd. are to enjoy these facilities and privileges beyond 2 years from 1.4.86 as they became ineligible for allotment of accommodation after 2 years from 1.4.86.

6. The applicants contend that Annex. A-4 and Annex. A-5 are not only discriminatory but also offend the doctrine of equality enshrined in Art. 14 of the Constitution of India. They further contend in their rejoinder that the defence of Respondent No. 4, in their return, that revised guidelines dated 24th October, 1985, prohibit them from allotting any residential accommodation to the members of the Nigam after lapse of two years from 1.4.86 is not only vexatious but also malicious.

7. It is unfortunate that Respondent No. 1, 2 and 3 have chosen not to file any return. Only Respondent No.4, the Director of Estate, Ministry of Urban Development, Government of India, have shown cause to the O.A. They place reliance upon Annex. I and Annex. II. Annex.I, an Office Memo dated 24th October, 1985, is a review of guidelines for allotment of general pool accommodation. The contents of this document have been reproduced herein above. According to these guidelines, the retention/allotment to employees of public sector undertakings, statutory bodies, semi-government organisations and government servants going on deputation to such undertakings are ineligible for allotment/retention of accommodation. It further provides that those who have been allotted accommodation can retain the accommodation only for two years, and in all cases market rate of licence fee should be recovered from the

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organisations who may recover normal licence fee from the officials.

8. Annex. II is a Government of India, Ministry of Urban Development (Directorate of Estate) Office Memo dated 10th July, 1986, addressed to the Ministry of Communication, repeating the above mentioned reviewed guidelines. The said reviewed guidelines clearly indicate that the allotment from the general pool shall not be made to the personnel of ineligible organisations. The ineligible organisations were advised to hire suitable private accommodation for its employees. Videsh Sanchar Nigam has been created out of Overseas Communication Service into a Government owned public sector corporation as is evident from Annex. A-3. In consequence of this notification, the services of all the employees of Overseas Communication Service were transferred to Videsh Sanchar Nigam and they were sent on deputation to the new corporation. Whether it is permissible under rules for Respondent No. 4 to allot the accommodation from general pool to the employees of this corporation? Respondent No. 4 allots the accommodation from the general pool in accordance with the Supplementary Rules (S.R. General Rules). S.R. 317-B of S.R. General Rules provides for the allotment of accommodation from the general pool only to those employed in eligible offices with the Govt. of India or Delhi Administration. Videsh Sanchar Nigam Ltd. which is a Corporation is thus clearly excluded from the S.R. General Rules because they are ineligible and are not employed by the Govt. of India & Delhi Administration. The guidelines referred hereinabove were thus framed in accordance with the provisions of S.R. General Rules. The applicants have not placed any evidence before us to show that they come within the eligible category of the S.R. General Rules (S.R. 317-B) so that their employees may be allotted accommodation by Respondent No. 4 from the general pool. S.R. 317-B

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does not prescribe allotment of accommodation from the general pool to the employees who are on deputation.

9. It has been contended at the bar that the employees of Videsh Sanchar Nigam Ltd. are enjoying privileges like that of the employees of any other Govt. of India Department, all other facilities like lunch subsidy, tuition fees, medical facilities, encashment of L.T.C., Group Insurance Scheme, Accidental Insurance Scheme, Conveyance allowance, etc. Hence, they are also entitled to the allotment of accommodation from Respondent No. 4. Be that as it may, as stated hereinabove, the S.R. General Rules do not provide for the allotment of accommodation from the general pool to the employees of Videsh Sanchar Nigam Ltd., who are on deputation.

10. It has also been brought to our notice that except two employees of the Nigam, all have since opted for absorption with the Nigam. Those two who have not opted for the service of the Nigam are of New Delhi branch and departmental disciplinary proceedings were pending against them.

11. Learned counsel for the applicant has called the impugned order as arbitrary and violative of Article 14 of the Constitution of India. Undoubtedly, our Constitution guarantees all persons equality before law or the equal protection of law. Equal protection means the right to equal treatment in similar circumstances. This guarantee thus seeks to prevent any person or class of persons from being singled out as a special subject or discriminatory or hostile legislation. It, therefore, follows that the principle of equality does not mean that every law must have universal application for all persons, who are not by nature, attainment or circumstances in the same position as the varying needs of different classes of persons often require separate treatment. The principle, therefore, does not take away from the State the power of classifying persons for legitimate purposes. Diverse problems do arise out of infinite variety of human relations dependent upon necessity. The classi-

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fication is permissible if it is based upon some real and substantial distinction bearing a just and reasonable relation to the object. Undoubtedly, the classification must not be arbitrary but must be rational classification and must be founded upon an intelligible differentia which distinguishes those that are grouped together from others. Needless to say that differentia must have a rational relation to the object sought. Nexus between differentia and object is essential. Whenever there is a challenge, the first duty of a court is to examine the purpose and policy and then to discover whether the classification made has a reasonable relation to the object.

12. Keeping in view this settled constitutional position, we have no hesitation in saying that the guidelines contained in Annex. 1 are reasonable and do not offend the doctrine of equality. These guidelines classify reasonably the Public Sector Undertakings, statutory bodies, semi-government organisations and Government servants going on deputation to such undertakings, as a class not entitled to accommodation from general pool of Respondent No. 4. These guidelines, making this classification, therefore, cannot be termed as arbitrary. The refusal of accommodation to Shri J.R. Soren and other employees of the Nigam by Respondent No.4 cannot, therefore, be held to be unjust and arbitrary.

13. Consequently, we are of the considered view that this O.A. which is bereft of any merit must be dismissed. It is, therefore, dismissed with the direction that the parties shall bear their own costs.

C. Jain
(P.C. JAIN) 13/5/1991

MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)

VICE-CHAIRMAN (J)