

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 1424/90  
T.A. No.

199

DATE OF DECISION 3/8/96

Shri Asi Mohammad

Petitioner Applicant

Shri S.N. Garg

Advocate for the Petitioner(s) Applicant

Versus

Union of India

Respondent

Smt. Raj Kumari Chopra

Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. P. Srinivasan  
D.K. Chakravarty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? }
4. Whether it needs to be circulated to other Benches of the Tribunal? N

(Judgement of the Bench delivered by Hon'ble  
Mr. P. Srinivasan, Administrative Member)

This application has been listed before us for admission. After hearing the learned counsel for both the parties, we are of the view that the application can be disposed of at this stage itself with appropriate directions.

2. The grievance of the applicant is that when he applied for change of Government quarter, the respondents did not allow him to do so. The applicant is under suspension. He was earlier working as a Mali in the President's Estate. He is occupying Quarter No.10/43, Schedule B, President's Estate, New Delhi. He applied to the respondents requesting that he be allotted some

*P. Srinivasan*

other quarter of a higher type. On 8.2.1990, he was informed through a Memo. addressed to him by the Under Secretary (Coordination), President's Sectt., that his request for change of accommodation to Type I had been considered and rejected and that his case for allotment of improvised Type I accommodation would be considered in his turn. Again, through another Memo. dated 2.1.1990, <sup>M issued by</sup> the Under Secretary, President's Sectt. he was informed that it had been decided to review his case of change from 'Block Quarter' to Type-I Quarter out of the President's Estates Pool after a decision was taken in the disciplinary proceedings pending against him. Aggrieved by both these memos, he has filed this application. Shri Garg, learned counsel for the applicant, submitted that the pendency of disciplinary proceedings <sup>or</sup> suspension, cannot stand in the way of the request of a Government servant for change in allotment of Government quarter according to rules. Denial of such change on the ground of pendency of disciplinary proceedings was violative of Articles 14 and 16 of the Constitution.

3. Smt. Chopra, learned counsel for the respondents, contends that allotment of Government quarter is not a condition or <sup>a</sup> right of service and that being so, the applicant cannot allege violation of Articles 14 and 16 of the Constitution.

4. The applicant had applied for change of accommodation and the respondents had informed <sup>by him that</sup> they could not accede to his request immediately. <sup>Shri Chopra</sup> She also submitted

*P. Chopra*

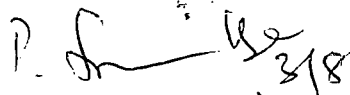
that there <sup>is</sup> no vacancy of accommodation of the type sought for by the applicant.

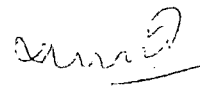
5. On careful consideration, we are of the view that the applicant cannot be denied allotment of another quarter, if otherwise permissible, merely on the ground that disciplinary proceedings are pending against him, or because he is presently under suspension. Without going into the question whether any Fundamental Right has been violated, once rules of allotment of Government quarter have been framed, the Government <sup>servant</sup> should be considered for allotment in accordance with those rules. The instructions on the subject make it clear that <sup>Government</sup> <sup>servant</sup> under suspension should not be put to any disadvantage and residences should be allotted to them when their turn comes as if the suspension had not taken place. Smt. Chopra is of the view that these instructions do not apply to the quarters in the President's Estate. We are not inclined to accept this contention. Whether a Government servant is working in the President's Estate or elsewhere, he continues to be a Government servant and the instructions applicable to all other Government servants, are applicable to him also. Allotment of a higher type of accommodation is no different from change of the same type of Government quarter.

6. In view of the above, we direct the respondents to consider the case of the applicant for allotment of the type of quarter requested by the applicant in accordance with the rules on the subject, ignoring the

*P. J. [Signature]*

fact that he is under suspension. The application is disposed of on the above terms at the stage of admission itself, leaving the parties to bear their own costs.

  
(P. Srinivasan)  
Administrative Member

  
(P.K. Kartha)  
Vice-Chairman (Judl.)