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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. 2286/90

Date of decision: 29.1.1993

Shri M.M. Srivastava

...Petitioner

VERSUS

Union of India through
The Secretary (Land & Building)
Delhi Administration,
Vikas Bhawan, New Delhi. Respondent

CORAM :-

Hon'ble Mr I.K. Rasgotra, Member (A)

For the petitioner : Shri D.R. Gupta, Counsel
For the Respondents : Shri B.S. Oberoi, Counsel

JUDGEMENT (ORAL)

Both the respondents No.1 & 2 have filed counter-affidavit, separately to which rejoinder has been filed by the petitioner. The short point involved in this O.A is, as to the treatment of the period from 7.7.87 to 27.8.92 for the purpose of recovery of rent from the petitioner. The Petitioner was on deputation to Delhi Administration, and continued to work there till 7.5.1987. He was allotted Quarter No.597-C, Delhi Administration Flats, Timar pur, from Delhi accommodation pool in July, 1983. He was later transferred to C.P.W.D. Hindon, Ghaziabad on 7.5.1987. On his transfer, he neither vacated the said quarter nor did he seek permission from the competent authority to retain the quarter as permissible under the rules. Shri D.R. Gupta learned counsel for the petitioner submitted that in accordance with the reciprocal arrangements made between Delhi Administration and the Directorate of Estates vide O.M. No.12024(2)/67-POL-II dated 2nd April, 1986, if a Central

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Government employee occupying a Delhi Administration pool quarter is transferred any where in India, he remains eligible for the allotment of accommodation from the General Pool. He can, therefore, be called upon to vacate the Delhi Administration Pool quarter only after he is allotted a quarter of the type of his entitlement on ad hoc basis and if the people of his seniority are covered or the next below type, if the case is otherwise. In these circumstances, the petitioner was neither required to apply for retention of the quarter nor vacate it till he is allotted alternative accommodation ~~in~~ in terms of the said O.M. of 2nd April, 1986. The learned counsel further submitted that his view is fortified by the fact that the petitioner has been allotted a residential accommodation on ad hoc basis on 11.10.1981 on the recommendation of Delhi Administration. He further stated the petitioner has since vacated the said quarter on 27.8.1992. In the circumstances, the learned counsel submitted that the petitioner is not at fault and he cannot be charged rent for the period of over-stay at the inflated rates respondent No.1 intends to do.

Shri B.S. Oberoi, learned counsel for the respondents on the other hand submitted that the O.M. dated 2nd April, 1986 relied on by the learned counsel for the petitioner is being misconstrued and mis-interpreted. The reciprocal arrangement as per O.M. of dated 2.4.1976 is in regard to the eligibility for allotment of accommodation from the 'general pool' ~~of the employee~~ of the employees of the

Delhi Administration and reciprocity is between Delhi Administration and 'General Pool' controlled by the Directorate of Estates, New Delhi. The said O.M., therefore, does not give any protection to petitioner who was transferred outside the Union Territory of Delhi. The learned ncounsel furrther referred us to the counter affidavit of respondent no.2 ~~wherein~~ which clearly stated that Hindon area comes under the Assistant Director of Estates cgo Building, Ghaziabad. The petitioner on joining the office of Executive Engineer, Hindon Central Electricity Division (gaziabad), did not apply to him for allotment of residential accommodation to him. Instead he submitted application for allotment of accommodation to the Hindon Air Force Authority. The said application of the petitioner was forwarded to the Air Force Authority by the local Air Force Office as the petitioner was not eligible for allotment of Air Force accommodation.

The learned counsel for the respondents further pointed out that the petitioner had accepted allotment of accommodation made to him by the Delhi Administration subject to the conditions as laid down in the Delhi Administration Allotment of Government Residence (General Pool Rules), 1977. The said rules are applicable ~~and~~ to the area falling within the Union Territory of Delhi and eligible offices are defined as offices of the Delhi Administration. He further pointed out that on transfer from Delhi Administration, the petitioner could have asked for retention of the said accommodation for a

2
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period of 2 months only in terms of Rule 11 of the said rules. The petitioner failed to do so with ulterior motive.

Shri D.R. Gupta, on the other hand drew my attention to paragraph 9 of the counter-affidavit of respondent No.1 in which respondent No.1 has accepted that the petitioner had filed a representation on 18.6.1990, which is stated to be still under consideration. This position was accepted Shri Oberoi, Learned counsel for the respondents. In the above facts and circumstances of the case I am of the opinion that since, considerable time has elapsed after the representation was filed by the petitioner and no decision has been communicated by respondent No.1. I am inclined to direct respondent No.1 to take decision on the representation of the petitioner with utmost expedition and preferably within 12 weeks from the date of communication of this Order.

The petitioner will be at liberty to seek remedy under the law in case he is aggrieved by the decision of the respondents. The respondents shall not make recovery of licence fee at the inflated rate till this decision on the representation is communicated to the petitioner. The O.A is disposed of accordingly. There is no order as to costs.



(I.K. Rasgotra)

Member (A)