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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-831/90

Date of decision: 15.8.91

B. Narain Sharma & Anr.

Applicants

Vs.

Union of India & Ors.

Respondents

PRESENT

Shri D.P. Avinashi, counsel for the applicants.

Shri P.P. Khurana, counsel for the respondents.

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

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

By this application, filed under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred as 'Act'), the applicants pray for relief for setting aside the order of the respondents passed on 15.1.1990 (Annexure 'B') and 6.3.90 (Annexure 'D') and not to dispossess them of their residential premises No. 551, Type IV, Sector 3, R.K. Puram, New Delhi. The applicants further pray to direct the respondents to allot/regularise such accommodation in the name of Applicant No.1. They further pray a direction to the respondents not to charge penal licence fee, but only normal licence fee.

2. Applicant No. 1 is the son and Applicant No. 2, the father. Applicant No. 2 was employed as a teacher in the Government Boys Senior Secondary School No. 2, Sarojini Nagar, New Delhi, and retired as P.C.T. with effect from 1.9.89 from the Department of Education, Delhi Administration, Delhi. Applicant No.1 has been working as a Yoga Teacher in the Government Boys Senior Secondary School, Netaji Nagar, New Delhi, since 10.1.1983. Both the applicants are employees of Delhi Adminis-

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tration. Applicant No. 2, during his tenure of office, was allotted the said premises by Respondent No. 2. On the retirement of Applicant No. 2, Applicant No.1 prayed for the allotment of the said premises in his favour as he was residing with his father and sharing the accommodation. Applicant No. 1 has not been drawing his HRA since 1.7.1986. Applicant No. 1 applied to the Minister of Urban Development on 26.8.1989 for the regularisation/allotment of the said Government accommodation vide Annexure 'A'. Vide Annexure 'B' dated 15.1.1990, the Assistant Director of Estates, Government of India, Directorate of Estates, informed by this letter Applicant No.1 that "it is regretted that it has not been found possible to accede to it since you are neither eligible nor entitled for allotment/regularisation of quarter No. 551/S-3, R.K. Puram". Respondent No. 2 sent a letter to the Principal, Government Boys Senior Secondary School, Sarojini Nagar, on 6.3.90 in which Applicant No. 2 was directed to vacate the accommodation in question on or before 30.4.1990. Applicant No. 1 on 26.9.89 submitted his application in the prescribed proforma for the allotment of the said accommodation, a copy of which is available at Annexure 'F'. The applicants in the OA also prayed for directions by way of interim order to the respondents not to dispossess the applicants from the premises. Ex-parte ad interim order was passed on 8.5.90 and the notice was directed to be issued to the respondents. Respondents appeared through the counsel on 22.5.90 and since then they had been seeking adjournments for filing their return. Till 13.5.91, the respondents did not file their return. The learned counsel for the respondents, without filing the return, argued the case on behalf of the respondents. The learned counsel for the applicants, Shri Avinashi, was heard finally and this O.A. is being disposed of finally on merits. The respondents failed to rebutt the contentions of the OA and also failed to produce any document for the purpose of opposing the prayer contained in the O.A. by the applicants.

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3. Applicant No. 1 filed an application for regularisation of the premises in his name addressed to Hon'ble Minister of Urban Development, Nirman Bhavan, New Delhi, vide Annexure 'A' whose reply is received vide letter dated 15.1.90 (Annexure 'B'). A perusal of this letter indicates that no reasons have been given as to why the premises cannot be regularised in favour of Applicant No. 1. In this letter, the respondents have written "You are neither eligible nor entitled for allotment/regularisation". This does not quote any rule, regulation or provision of the law by which the process of allotment/regularisation is governed. Rule 317-B of Supplementary Rules to F.R./deals with the allotment of accommodation from the general pool to the Government of India employees and the employees of the Delhi Administration. According to these Rules, the employees of Delhi Administration are eligible for allotment from the general pool. Those who are ineligible, for them separate departmental notifications/memorandums etc. have been issued. The learned counsel for the respondents was unable to point out any such document which may indicate that the Applicant No. 1 is ineligible for the allotment. Annexure 'B' does not disclose the reasons as to why Applicant No. 1 is ineligible and why he is not entitled for the allotment/regularisation. This order passed by the respondents is arbitrary in nature. Residential problem for the employees of the Government of India and Delhi Administration in New Delhi is governed by SR No. 317-B because in this capital city there is dearth of suitable accommodation according to the status of the employee. Furthermore, the purse of the low-paid employees does not permit them to go ⁱⁿ for private residence and that is why Rules have been framed for the benefit of the employees. It becomes the bounden duty of the respondents, while dealing with the allotment/

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regularisation of the accommodation, to apply their mind to the problem before them and try to solve it to the best of their ability and capacity to give accommodation to the employees of the Government of India and Delhi Administration. Respondents have utterly failed to satisfy this Tribunal and justify the reasonless order dated 15.1.90 at Annexure 'B'. Complete law has been discussed by a Bench of this Tribunal in OA-1713 of 1987 decided on 13.5.1991 in which the law, rules and regulations with regard to the allotment of accommodation to the eligible employees and non-allotment to ineligible employees has been discussed. Keeping in view the principles laid down in the that judgment, we are of the view that refusal by the respondents for regularisation of accommodation in the name of Applicant No. 1, vide Annexure 'B' dated 15.1.90, is totally arbitrary and unjust. Consequently, the order dated 15.1.90 vide Annexure 'B' by the respondents is quashed. This unreasonable order does not deserve to be maintained. This OA is allowed and the respondents are directed to regularise Quarter No. 551/S-3, R.K. Puram, New Delhi, in the name of Applicant No.1. The Respondents are further directed to charge the normal licence fee and not to charge penal rent from Applicant No.1 or Applicant No. 2, but the parties shall bear their own costs.

P.C. Jain
(P.C. JAIN)

MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)

VICE-CHAIRMAN (J)