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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn.No. OA-574/91

Date of decision: 16.2.1993.

Shri Hari Mitra Bhandari Applicant

Versus

Union of India & Anr. Respondents

For the Applicant Shri Sant Lal, Advocate

For the Respondents Shri P.P. Khurana, Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. To be referred to the Reporters or not? *Yes*

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who has worked as Assistant Technical Officer, Intelligence Bureau, Ministry of Home Affairs, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned orders dated 2.1.1990 and 29.3.1990 issued by the respondents and to declare that he is in authorised possession of Government accommodation No.100/IV, North-West Moti Bagh, New Delhi. He has also prayed for a direction to the respondents to make allotment of alternative accommodation of one type below

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under the standing orders dated 15.2.1984 to enable him to vacate the present accommodation in occupation of his family.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. On 8.3.1991, the Tribunal passed an interim order directing the respondents not to proceed with the eviction proceedings in pursuance of the notice dated 3.8.1990 issued by the Estates Officer. On 20.3.1991, the interim order was continued and it was further directed that the applicant be not dispossessed of the Govt. accommodation in question on payment of usual charges as per law. The interim order has thereafter been continued until further orders.

3. The facts of the case are not disputed. The applicant was allotted a Type-D Government Quarter, mentioned above, while he was working as Assistant Technical Officer, Intelligence Bureau, Ministry of Home Affairs, New Delhi. He was transferred from Delhi to the North-Eastern region in public interest as Assistant Director (Technical), S.I.B., Kohima in Nagaland. He was relieved from Delhi on 15.11.1989 and joined duty at Kohima on 1.12.1989.

4. Under the standing instructions contained in the O.M. No.12035(24)/77-Pol.II, dated 15.2.1984, issued by the respondents, if a Government servant who is an allottee/occupant of Government accommodation, is transferred to one

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of the North-Eastern States and desires to keep his family at the last station of his posting, is entitled to an alternative accommodation of one type below upto Type-E accommodation in the same or nearby locality for the bona fide use of his family. Pursuant to the aforesaid order, the applicant, on his transfer to Kohima, submitted an application in the prescribed form on 11.12.1989 for allotment of alternative accommodation. The respondents, however, by their letter dated 2.1.1990, cancelled the allotment of the Government quarter in question w.e.f. 15.1.1990 and directed^α that the same be vacated by that date positively. It was also stated that eviction proceedings would be taken against him and he would also be liable to pay damages for the period of overstayal.

5. By letter dated 29.3.1990, the respondents rejected the application made by the applicant for allotment of alternative accommodation on the plea that he owned a house in Vikas Puri, New Delhi. He submitted a representation to the Director of Estates on 24.4.1990 against the aforesaid order stating therein that the house owned by him was rented to Engineers India Limited, New Delhi, who were reluctant to vacate the same. In the meanwhile, the Estates Officer initiated eviction proceedings against the applicant. By letter dated 4.2.1991, the Estates Officer called the applicant

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for personal hearing on 14.2.1991. He appeared before him on the said date and explained his position.

6. The applicant has stated that, in the meantime, he also made best efforts to persuade his tenant to vacate his house, but without success.

7. During the hearing of the case, the learned counsel for the applicant stated that the applicant has been transferred back to Delhi. He relinquished charge of the post of Assistant Director, Kohima, on 12.9.1991 and joined duty at New Delhi on 30.9.1991. He submitted an application on 1.10.1991 for regularisation of the accommodation in question.

8. The stand of the respondents is that the concession of alternative accommodation is admissible only in the cases of the Government employees who are posted to North-Eastern region and who have no house of their own in Delhi/New Delhi. In the instant case, the applicant is a house-owner in Delhi and he is not entitled to the benefit of the alternative government accommodation.

9. Another Bench of this Tribunal had considered the question whether the benefit of alternative accommodation in such circumstances could be given to an allottee. In judgement dated 27.2.1992 in OA-241/91 (Shri Panna Lal Gupta Vs. Union of India and others) a similar question arose for

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consideration. In that case, the applicant, an Assistant Director in the Intelligence Bureau, was transferred to Guwahati (North-Eastern region) and at the time of his transfer, he was in possession of Government accommodation. He applied for alternative accommodation in terms of the O.M. dated 15.2.1984. Later on, he was transferred back and joined duty at Delhi. He applied for regularisation of the aforesaid quarter as the allotment in his name had been cancelled in the meantime. The Tribunal held that the O.M. dated 15.2.1984 does not stipulate that an officer who has been transferred to the North-Eastern region and owning a house of his own at Delhi, would not be allotted or regularised the accommodation of the same Type or lower Type. We reiterate the same view.

10. In the light of the above, we allow the application and set aside the impugned orders dated 2.1.1990 and 29.3.1990 issued by the respondents. The respondents are directed to regularise the Government Quarter No.100/IV, North-West Moti Bagh, New Delhi, in the name of the applicant. We further direct that the respondents shall charge only the normal Licence Fee for the entire period of his occupation of the said quarter. The interim orders passed on 8.3.1991 and 20.3.1991 are hereby made absolute. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 16/2/93
Administrative Member

awm
(P.K. Kartha)
Vice-Chairman (Judl.) 16/2/93