

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 3133/92 .. Date of decision: 13.07.93

MP No. 3830/92 & 2829/93

ASI Virender Kumar & Others .. Applicants

Versus

Union of India

.. Respondents

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Hon`ble Sh. J.P.Sharma, Member (J)

For the applicant .. Sh.S.D. Kinra, Counsel

For the respondents .. Sh.Vinay Sabharwal, Counsel

JUDGEMENT(Oral)

(Delivered by Hon`ble Sh. J.P.Sharma, Member (J)

All the applicants have jointly filed this application aggrieved by the order dated 11.11.92 passed by the Deputy Commissioner of Police and they have prayed that the Respondent No.1 i.e. Commissioner of Police, Delhi be directed not to disturb the allotment of the flat occupied by the applicants which is being continuing in occupation since last 10 years. They have sought for a direction that Respondent No.2 i.e. Deputy Commissioner of Police be directed not to change the category of the respective flats occupied by the applicants. ASI Virender Singh has earlier filed OA No. 2311/92 which was disposed of vide order dated 8.9.92 at the admission stage with the direction to the respondents to dispose of any representation of the applicants on that OA and the applicants still feel aggrieved by such an order, he shall be free to agitate the matter again. Vide

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order dated 3.12.92, an impugned direction was issued to the respondents that the applicants would not be evicted for a period of 14 days and that order appears has been continued from time to time till today. The matter has been finally heard. The respondents have filed the counter reply. They have stated that the applicants are not entitled to the grant of relief prayed for.

The pleadings have been perused and the learned counsel for the parties have been heard. The learned counsel for the applicant raised two issues in this case. Firstly that the quarters in occupation and possession of the applicants are Type II quarters and cannot be brought within the purview of defenition of Type III quarters. It has also been argued that categorisation of the quarters cannot be arbitrarily changed to the disadvantage and inconvenience of applicants disturbing them by evicting from the said quarters. As a consequence, it has also been urged that the education of the school going children as well as the social sphere of the applicants will be badly affected. The other arguments of the learned counsel is that the persons to be inducted in this quarters had no claim better than the applicants.

The learned counsel for the respondents contended that as early in 1983 when these flats were acquired from the DDA for Police personnel, a querry was made from CPWD and in that querry, it was answered that this quarters may be classified "Type III quarters". After filing of the present application, an another communication was addressed to CPWD in which the reply given by the Department is that the

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plinth area of the quarters in occupation of the applicants is 52.81 sq.m while the normal area of Type II is 52.50 sq.m. The plinth area of Type III quarters is 64.95 sq.m. It is further stated in that letter that extra aminities have been provided in these quarters which are :

1. White glazed kitchen sink along with one tap.
2. One extra wash basin has also been provided in each quarter.

Besides these, further provision was made for magic eye in front door as per new norms of Type III quarters.

The learned counsel for the respondents has also argued that he is giving a statement of undertaking on the instructions from the Deptl. representative that any of these quarters which have normally the categories as Type III quarters shall not be allotted to any of the incumbents who are drawing less than Rs. 1820/- p.m. as basic salary. This appears to be also in line with the Standing Order No. 3/91 issued by the office of the Commissioner of Police, Delhi.

During the course of hearing, there was a concensus of opinion by both the counsel that in case any of the applicants have their basic salary at Rs. 1820/-and above as on the date of this application i.e. on 2.12.92 shall not be re-placed by such other incumbent would become eligible by virtue of getting the same emoluments as basic salary.

The learned counsel for the applicant prays for some

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time to consult each and every applicant as only one of them present today. I do not think it necessary to adjourn this matter as the principle has been arrived at after the consideration of rival contention of both the parties to their satisfaction.

The other issue of categorisation of these quarters, it is specifically held that these quarters shall be classified as Type III quarters and will be allotted to those eligible category of officials as per standing order 3/91.

The application is, therefore, disposed of with the following directions:

- (a) All the applicants who are drawing the basic salary on 2.12.92 at Rs. 1820/- p.m. shall not be disturbed from the present accommodation by the impugned order. The impugned order, therefore, get modified to that extent.
- (b) All those applicants who are getting on the date 2.12.92 less than Rs. 1820/- p.m. as basic salary, given alternative eligible Type II accommodation in Paschim Vihar as already decided by the respondents in the impugned letter.
- (c) The applicants who retain the accommodation as Type III, they shall be liable to pay licence fee as laid down by the Department but no arrears be charged from them from the period earlier to 2.12.92.

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In these circumstances, the application is disposed of. The MPs also be disposed of accordingly.

The papers filed by the parties be taken on record.

There will be no order as to costs.

J. P. Sharma
(J.P. Sharma)
Member (J)

13.7.93