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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No. 651/92

New Delhi this the 1st Day of December, 1993.

Hon'ble Sh. B.N. Dhoundiyal, Member(A)

Sh. Husan Singh
S/O Sh. B.S. Verma,
R/O 327- Police Colony,
Ashok Vihar, New Delhi.

Petitioner

(Applicant in person)

versus

1. Commissioner of Police,
Delhi Police Headquarters,
MSO Building,
I.P. Estate, New Delhi.
2. Dy.Commissioner of Police,
Headquarters(III), M.S.O. Building,
I.P. Estate,
New Delhi.
3. Station House Officer,
Police Station,
Ashok Vihar,
Delhi-52.
4. Sh. Bal Krishan,
HC No.331/NW,
Quarter No.410 Type-A,
Police Colony,
Ashok Vihar, Delhi.

Respondents

(By Advocate Sh. M.C. Garg)

O R D E R

This O.A. has been filed by Sh. Husan Singh who is working as Sub-Inspector of Police under Delhi Administration. He has been allotted Government Quarter NO.327-Police Colony, Ashok Vihar, New Delhi which is situated at second floor. His wife is suffering from Asthma and is unable to climb up and down. He had, therefore, applied for change of quarter from second floor to first floor along with copy of medical certificate on 30.1.1991. Quarter No.301 at ground floor in the same colony fell vacant after a long wait and should have been allotted to

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him. However, this was wrongly allotted out of turn to H.C. Balkrishan in place of his 'A' Type Quarter No.4100 in the same colony on the basis that his father was suffering from T.B. and needed a separate room. The following reliefs have been claimed in the amended O.A.:-

- (a) This Hon'ble Tribunal may be pleased to quash the order No.18320/Q.A. Cell dated 17.12.92 (Annexure-D), 194/Q.A. Cell/PHQ dated 2.1.1992 (Annexure-E) & 17253-61/Q.A. Cell dated 26.11.91 to the extent that the Quarter No. 301 Type-II Police Colony, Ashok Vihar, Delhi is allotted to H.C. Balkrishan, 331/NW, Respondent No.4.
- (b) This Hon'ble Tribunal may be pleased to allot Govt. Quarter No.301, Type-II Ground Floor, Police Colony, Ashok Vihar, Delhi to the applicant under Rule XIV(a) of the Delhi police Allotment Rules, 1991 and direct the Respondent No.2 to give possession of the quarter to the applicant within three days.

(Amended vide M.P.No.3714/92).

In the counter filed by the official respondents, the main averments made are these. The applicant had been allotted Govt. Quarter No.327 Type-II, Police Colony, Ashok Vihar, New Delhi. He appeared in orderly room on 5.12.1991 to pursue his request on medical grounds. However, his request was not found genuine and as such was not acceded to. He was, however, registered in the normal change waiting list. When quarter situated at ground floor became available in November, 1991 a request of H.C. Balkrishan was already pending on priority waiting list for allotment of Type-II quarter at ground floor as his dependent father was a cancer patient. The competent authority allotted the quarter to H.C. Balkrishan. The applicant thereafter submitted representations challenging

the said allotment. However, no substance was found in the representations which were rejected vide memo dated 2.1.1992. the said allotment. However, no substance was found in the representations which were rejected vide memo dated 2.1.1992.

In the counter filed by Respondent No.4(H.C. Balkrishan) he has stated that his father has been residing with him and is suffering from cancer. The allotment in question has been made in view of the answering respondent and also on priority. He has also enclosed a copy of the ration card in which his father name is included. In accordance with the rules for allotment an earlier application for out of turn allotment has to be considered on the basis of first come first serve. Even though the applicant is senior to him he had applied for the priority allotment much later. The quarter had already been allotted to Respondent No.4 and on 5.12.91 an occupation slip was issued in his favour.

On 30.3.92, this Tribunal passed an interim order restraining the respondents from giving over possession of the disputed accommodation to Respondent No.4. This interim order continues till date. The applicant has appeared in person and has been submitting MPs frequently either for amending the O.A. or for advancing fresh arguments and for producing records. These M.Ps. have been considered from time to time and have been disposed of under various orders. On 14.5.93 the arguments were concluded but the applicant again came with a fresh M.P. Thus at the time

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of final hearing on 17.11.93 three M.Ps., namely, 1471, 596, 1941 of 1993 were to be considered. The arguments were heard again^{ly} on 17.11.93.

In M.P.No.1461/93 the applicant has tried to show that the medical certificate issued by Dr. Aggarwal to the father of Respondent No.4 was without authority and the Ram Manohar Lohia Hospital or the Dispensary is not equipped to give treatment for cancer. In M.P.No.1941/93 the applicant has sought to advance a legal argument that Note-I of the Rule XIV relating to out of turn allotment is contrary/repugnant to the definition of the priority date mentioned in Rule XIV (x) (b). In M.P.No.596/93 the applicant has referred to Rule 14(a) of Delhi Police Allotment Rules which provide for out of turn allotment in very exceptional and really deserving cases and advanced his arguments how the allotment in favour of Respondent No.4 was erroneous. The contents of these M.Ps. were included in the arguments advanced by the applicant at the time of final hearing and ^{these are} have been disposed of vide this judgement.

The learned counsel for the respondents has argued that in accordance with the standing order 3 of 1991 out of turn allotment can be made either on genuine compassionate ground or on medical ground in cases of specified deceases like TB, Cancer or handicapped etc. Asthma is not included as one of the deceases for this purpose. H.C. Balkrishan Respondent No.4 had applied for priority allotment much earlier than the applicant and in accordance with the rules. These applications have to be considered on first come first serve basis.

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The applicant has furnished sufficient proof to cast doubt on the justifiability of out of turn allotment of this quarter to Respondent No.4. He has a right to ~~the~~ considered for out of turn allotment on genuine compassionate grounds and the allotment officer has to give findings whether his case is an exceptional and really deserving one. The respondents have produced a register giving the dates on which personal hearing was giving to the applicant for out of turn/change in quarter. However, the register only shows that in his case the only order passed was 'to put up the file'. It is not known as to what orders were passed on the file or whether the allotting officer had applied his mind to the points raised by him in his representation. The file has not been produced. I hold it just and proper to direct the respondents to give another opportunity of personal hearing to the applicant and to consider all the points raised by him in his representations/OA/MPs and pass speaking orders thereon. The respondents shall also look into the genuineness of the claims of Respondent No.4. This exercise should be completed within a period of one month from the date of communication of this order. Till then the interim order staying the allotment of the said quarter shall remain operative.

With the above observations, the O.A. is disposed of finally. No costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 1/12/93
Member(A)