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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.No.1673/93

New Delhi dated this the 14th January 1994
HON. MEMBER(J) SHRI C.J. ROY.

Balkar Singh,
S/o Late Darshan Singh,
R/o 23/15, Uri Enclave,
Delhi Cantt. 110 010.

Applicant

By Advocate Shri U.S. Bisht.

Versus

Union of India through

1. The Secretary,
Ministry of Defence,
New Delhi 110 010.
2. General Officer Commanding,
HQ Delhi Area,
Delhi Cantt. 110 010.
3. Station Commander,
Station Headquarter,
Delhi Cantt. 110 010.

Respondents

By Advocate Shri B.K. Aggarwal.

JUDGEMENT

(delivered by Hon.Member(J) Shri C.J. ROY)

This OA has been filed by Shri Balkar Singh against the order of the respondents dated 22.2.1993 by which the request for the grant of approval for exchange of accommodation of different type between employees was rejected.

2. The brief fact of the case, according to the applicant is that he was appointed on compassionate ground as an IDC in Garrison Engineer (East) Delhi Cantt. in view of the death of his father in a road accident and also got the Government quarter allotted to his father regularised in his name. Due to increase of members in his family along with two unmarried sisters, a younger brother and his widowed mother, the living condition in a Type-I quarter which consists of only one room, has become very difficult

and in order to overcome this, he decided on mutual agreement with one Shri Gian Singh, a Supervisor serving in 505, Army Base Workshop Delhi Cantt, to change over his quarter to Type-II. He states that such change over on mutual agreement is a practice prevalent in Delhi Cantt. and has been accepted by the Station Head Quarters (respondents) in a number of cases and has given the details of four such persons, who were earlier allowed to exchange the quarter on mutual agreement. But on the one hand while accepting that he is entitled for Type-II accommodation and rejecting on the ground that the running seniority of Type-II accommodation is 5.7.61 and that the type of accommodation is different, on the other hand, the same authority has allowed Type-II accommodation on mutual agreement to Shri Vijay Kumar Sharma, who is two years junior to him as LDC and draws less basic pay. He made more than one representation including a legal notice dated 25.6.93 (Annexure A-7) which was also rejected. He further states that one of the requirements of Mutual Change over of accommodation is that both the occupants should continue to occupy the accommodation for six months. In his case, the request was made on 17.11.92, i.e. more than a year ago. Since the other party (Shri Gian Singh) is to retire from service in November 1993, the delay in accepting the mutual change over for which he is eligible, would cause more hardship and pain to him and to the whole family. He has prayed for setting aside and quashing the impugned order and to protect his right by directing the respondents to accept the Mutual Change over of the Type-II accommodation as done in other instances and to protect his right for

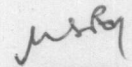
the accommodation in the event of Shri Gian Singh (2nd party of Mutual Agreement) retiring from service as per mutual agreement.

3. The respondents have filed the counter in which they have stated that the applicant is entitled for Defence Civilian General Pool accommodation and the change-over can be approved by Station Head Quarter as and when his seniority for Type-II accommodation comes, for which he has not yet applied for. Secondly, MES Key personnel accommodation are being allotted to the MES Key personnel only, on the recommendation of Commander Works Engineer, Delhi Cantt and not for General Pool accommodation, which is, being allotted and controlled by Station Head quarter, Delhi Cantt. as per the seniority maintained and as per SRO 308/78. Here, the applicant is not a MES Key personnel and the instances cited by him in his application were MES Key personnel accommodation and not the general pool accommodation. He was allotted Type-I General Pool Quarter temporarily in terms of para 20 of SRO-308/78 and the running seniority of Type-II quarter allotment is 5.7.61 while the date of appointment of the applicant as LDC is 30.4.1981. He cannot be allowed to supercede the waiting list of others out of turn since this will amount to great injustice to those who have been waiting for allotment in the waiting list since long. Further, the applicant Shri Balkar Singh and Shri Gian Singh have submitted their mutual application for change over of accommodation which belongs to different categories and is contrary to para 12 of SRO-308/78.

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4. I have heard the learned counsel for both parties and perused the documents on record. The applicant only claims that there are instances of mutual exchange of quarters and that he should be considered on the same footing. But the accommodation of those persons cited as instances belong to MES Key personnel accommodation and not Defence Civilian General Pool accommodation, to which the applicant is entitled to. Further the applicant has not shown any rule position in this regard. It is also argued by the respondents that the applicant cannot be allowed to mutually exchange the quarter against the rules and that it would be unjustified to those persons who are in the waiting list seniority roster. I feel the respondents have rightly rejected the request of the applicant which would otherwise have caused great injustice to those waiting in the seniority list. However, in view of the increase in the family of the applicant, ⁹ ~~we~~ direct the respondents to consider his case on humanitarian ground^y for allotment of a quarter of his entitlement, in his turn, in the Defence Civilian General Pool accommodation, to which he belongs to. No costs.

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(C.J. ROY)

MEMBER(J)