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Central Administrative Tribunal  
Principal Bench, New Delhi.  
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O.A. No.2060 of 1993

24th day of December, 1993

Shri P.T. Thiruvengadam, Member (A)

Shri Diwakar Kukreti,  
s/o Shri G.R. Sharma,  
Presently working as Deputy Registrar,  
Central Administrative Tribunal,  
Principal Bench, Faridkot House,  
Copernicus Marg,  
New Delhi.

Applicant

By Advocate Shri V.S.R. Krishna

Versus

Union of India through:

1. The Secretary,  
Ministry of Urban Development,  
Nirman Bhavan,  
New Delhi.
2. The Director,  
Directorate of Estates,  
Nirman Bhavan,  
New Delhi.

Respondents

By Advocate Shri P.P. Khurana

(Oral) O R D E R

**Shri P.T. Thiruvengadam, Member**

This case has been coming up for some time and the learned counsel for the respondents appeared on the last occasions, when the case was listed on 2.11.1993 and 26.11.1993.

2. The facts of the case are as under. The applicant applied for allotment of Type V-A accommodation in the month of November, 1991. Subsequently,

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on 24.1.1992, he modified his application for allotment of Type IV (Special) accommodation instead of Type V-A. His request so modified was duly considered and Type IV (Special) Q.No.Q-14, Andrews Ganj (Pinjrapur, New Delhi) was offered vide letter No.79/813/E dated 25.3.1992. It is the case of the applicant that this letter of offer never reached him in his office or at his residential address. Subsequently, he noted that some of his juniors had been allotted Type IV (Special) accommodation and on enquiry, he learnt of the allotment letter made in his favour, but it did not reach him. The applicant contends that even till date, he has not received any allotment letter. He made a representation on 24.11.1992 and this was also forwarded by the office in which he is working. In his representation, he had requested for a fresh allotment in lieu of the earlier allotment of March, 1992 which did not reach him. It is his case that the respondents have not replied to his representation dated 24.11.1992. This O.A. has been filed with a prayer to direct the respondents to allot one ground floor, Type IV (Special) accommodation in Pinjrapur locality of New Delhi.

3. On 1.10.1993, when the case came up for hearing, interim relief was ordered to the effect that one Type IV (Special) quarter should be kept vacant. This interim order was subsequently modified on 26.11.1993 to the effect that the respondents should allot the next available relevant Type IV (Special) accommodation which would be vacant for

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allotment on the date the order is passed in this O.A. or if there is no such vacant accommodation, any such accommodation that would fall vacant immediately after the order is passed, in case the final order is in favour of the applicant.

4. The learned counsel for the applicant argued that the letter of allotment dated 25.3.92 had been sent to the applicant and the address was such that it could not reach him. It is his contention that the wrong marking of the address has resulted in the loss of the letter which itself was not sent by registered post. Also, the applicant had given both his office and residential addresses to ensure that there would be no complaint of non-receipt of the letter of allotment, yet the allotment letter did not reach any of these addresses. It is not the fault of the party that the letter of allotment has not reached him and an opportunity which was available to him in March, 1992, when there was a sudden addition to the total number of quarters available because of new construction, was lost. In early, 1992, about 275 new Type IV (Special) quarters had been added because of which the eligibility limit for consideration for allotment of this type came down considerably and not only covered the applicant, but even those who were drawing lesser pay. By the time he came to know of the missed opportunity and made further representations, the cut-off limit went up again and the applicant is now getting excluded.

5. It is the case of the respondents that the allotment letter was sent to the address of the addressee in the same way as had been indicated by the applicant in his application form. The request of the applicant dated 12.8.1993 has been examined in the Directorate of Estates and at this stage, the applicant's priority is not covered as per the prevailing cut-off dates with reference to his basic pay. The case of the applicant has been kept in the waiting list and allotment will be made to him as per his turn. During the arguments, the learned counsel for the respondents also mentioned that a copy of the allotment letter is endorsed to the office where the employee works. Accordingly, this Tribunal directed that an affidavit may be filed by the office of the applicant about the receipt or otherwise of the impugned allotment letter. The dealing Assistant and Section Officer in charge of General Administration have filed their affidavit stating that they have verified from the diary register and the relevant records and have found that the impugned allotment letter has not been received in the office.

6. Having heard both the counsel and after going through the records, including the affidavits mentioned above, I find that it is not disputed that an allotment was made to the applicant in March, 1992. In the address of the applicant in the allotment letter, the words 'Ministry of Personnel & Training' have been added over and above the address of the C.A.T., Principal Bench, Faridkot House, Copernicus Marg, New Delhi. Whether this by itself would have

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caused miscarriage in transit, cannot be clearly stated. The respondents have admitted that the letter of allotment was sent only by U.P.C. and not by registered post <sup>A.D.</sup> and hence, proper service cannot be ascertained. The affidavits <sup>sworn</sup> ~~shwon~~ by the dealing staff in the Office of the applicant (C.A.T., Principal Bench) indicate that the endorsement of the allotment letter addressed to the office has also not been received by the office. In the circumstances, I have to accept that the letter of allotment has not reached the party.

7. The next issue that arises is what is the remedy available to the party. The respondents have enclosed a copy of Office Memorandum issued by the Directorate of Estates dated 1.10.1990 which reads as under:-

"Office Memorandum

Subject:- Allotment of General Pool residential accommodation - request for consideration.

The question whether an officer who claims reconsideration for allotment on the ground that he did not receive the offer of allotment either because he was on leave/tour or for some other reason like change in office address etc., has been examined thoroughly. It is considered that an officer who has applied for allotment of quarter is supposed to keep in touch with the date of priority being covered and ensure that if an offer of allotment is received while he is on leave/tour, he duly authorises someone else to receive and accept the same on his behalf. Similarly, in cases where there is change in the office address subsequent to the application for allotment on the basis of which he was listed in the waiting list, it is the duty of the officer concerned to get his office address changed in the relevant documents in the Dte of Estates. Ordinarily, therefore,

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there should be no case for reconsideration of an offer of allotment previously sent to him is not responded to within the time prescribed in the allotment rules/the offer of allotment.

2. Nevertheless, if there are reasons to believe that in spite of all the precautions taken by the officer to receive and respond to the offer of allotment letter did not really reach him or the person authorised by him to receive the same, such cases may hereafter be reconsidered only after obtaining the approval of DE-II in respect of type I to IV accommodation and D.E. for higher types of accommodation. In all cases where reconsideration is approved by De-II/DE, the applicant shall not be considered in the same month but his name shall be included according to his date of priority, in the waiting list for the next month and an allotment will be given to him in his turn on the next month's waiting list only."

8. The provision in the above letter provides for reconsideration where there are reasons to believe that in spite of all precautions taken, the offer of allotment letter did not reach the intended party. The Director of Estates is competent to consider the name according to the date of priority in the waiting list for the next month and an allotment will be given to him in his turn on the next month's waiting list only. At this stage, the learned counsel for the applicant contended that the Office Memorandum dated 1.10.1990 is not applicable in the instant case as para.1 covers only cases of allottees being on leave/tour or their office addresses having undergone changes. He also argued that the applicant could not be expected to keep track of the happenings in the Directorate of Estates on a day-to-day basis. I am not convinced by this<sup>e</sup> argument of the applicant that the letter of 1.10.1990 is not applicable in the circumstances of his case.

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9. Coming to the actual contents of para.2 of the above letter, there is a provision for reconsideration in cases of genuine non-receipt of allotment letter and during such reconsideration, the affected party is put in the waiting list for the next month according to his date of priority. The matter to be considered now is what should be the date of priority. In March, 1992, when the applicant was given the allotment, certain date of priority was reckoned in his case. By the time he could realise that he had missed the opportunity of taking possession of the allotment for reasons as stated by him and the representation could be submitted, the date of priority had got changed to his disadvantage. It will be against the principles of natural justice if a consideration shown at a relevant point of time, gets changes adversely for no fault of his. Had the applicant received the allotment letter, he would have accepted the allotment and it is also a fact that at that point of time even those who were getting lesser pay than him, were given the benefit of similar allotment. To deny him on technicalities, will not be equitable or fair.

10. Hence, in the circumstances as above, the respondents are directed to allot the next available Type IV (Special) accommodation which would be vacant for allotment on the date of receipt of this order, to the applicant. If there is no such vacant accommodation on this date, the next Type IV (Special) accommodation which falls vacant thereafter, be

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allotted to him.

11. The O.A. is disposed of accordingly. There will be no order as to costs.

*P. T. Thiruvengadam*

(P.T. Thiruvengadam)  
Member(A)

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