

15

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

W.A.NO. 2477/93

Dated: 28th April, 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Smt. Swaran Lata Bahl,  
W/o Shri K.L. Bahl,  
Trained Graduate Teacher,  
Government Boys Senior Secondary School, INA,  
Directorate of Education,  
Delhi Administration, Delhi.  
(By Advocate Shri B. Krishan) ..... APPLICANT

VERSUS

1. Union of India,  
through the Director of Estates,  
Directorate of Estates,  
'C' Wing, 4th Floor, Nirman Bhawan,  
New Delhi-110011.
2. The Secretary,  
Land & Building Department,  
Govt. of NCT,  
Delhi Administration, Delhi  
'A' Block, Ground Floor, Vikas Bhawan,  
Indra Prastha Estate,  
New Delhi-110002.

(By Advocate Shri V.S.R. Krishna) ..... RESPONDENTS

JUDGEMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this application Smt. Swaran Lata Bahl, T.G. Govt. Boys Secondary School (B), Lodi Colony, New Delhi (under Delhi Administration) has sought regularisation of General Pool (Directorate of Estates), residence bearing No. 22/1054, Lodi Colony, New Delhi which stood allotted to her husband Shri K.L. Bahl in 1982 while he was in Govt. service and who retired on superannuation on 31.1.93. Alternatively she has sought allotment of entitled type of accommodation from Delhi Administration or DIC may be directed to be taken in Delhi Administration Pool and till such time as alternative accommodation is allotted to her she has prayed that she be allowed to continue in the present accommodation.

2. The grounds taken are that the claim for regularisation is covered by Directorate of Estates
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O.M. dated 1.5.81 read with O.M. dated 9.11.87, and that there are precedents to support the applicant's case.

In this connection the cases of Anil Kumar Singh, Smt. S.S. Madan and Smt. Snah Lala Dutta have been cited.

It is contended that in view of the actionable claim for regularisation of the quarter, the applicant cannot be treated as an unauthorised occupant, and that the action of the respondents is not regularising the said premises in her name is arbitrary, illegal and conspicuous, more particularly is that the applicant is herself retiring in November, 1995.

3. We have heard Shri Krishan for the applicant and Shri Krishna for the respondents.

4. While Director of Estates O.M. dated 1.5.87 (Annexure A.4) and 9.11.87 (Annexure A.5) no doubt provide for ad hoc allotment of General Pool accommodation to eligible dependents/relations of Govt. employees on their retirement, subject to certain conditions, our attention has also been invited to Directorate of Estates O.M. dated 27.12.91 filed by the applicant herself (along with copies of various judgements relied upon by her and taken on record) in paragraph 3 of which it is clearly stated that the benefit of ad hoc allotment/regularisation on retirement/death ground will not be admissible to the ward of such allottees in case the ward is employed as a teacher or in the staff of a school under Delhi Administration. As the applicant is a teacher in a school under Delhi Administration, it follows that she is not entitled to ad hoc allotment/regularisation of General Pool quarter, consequent to the retirement of her husband.

5. Shri Krishan has argued that the O.M. dated 27.12.91 is merely in the nature of administrative instructions and cannot override the statutory rules. The applicant has not cited any statutory rules under which ad hoc allotment/regularisation of general pool accommodation is admissible to wards of Central Govt. servants who die/retire and who are teachers or in the staff of Delhi Administration, which have been withdrawn by O.M. dated 29.12.91. In fact the O.M.s dated 1.5.81 and 9.11.87 relied upon by the applicant for ad hoc allotment/regularisation of accommodation are themselves in the nature of administrative instructions. Hence the ruling in C.L. Verma Vs. State of U.P. AIR 1990 SC 463 cited by Shri Krishna has no application to the fact of this case.

6. Shri Krishna has also referred to various other cases, which may also be touched upon. In Prem Kumari & Another Vs. U.T. Administration, Chandigarh & Another (1994) 27 ATC 831, the Hon'ble Supreme Court has held that courts cannot sit in judgement over the policy of the administration. The decision describing Delhi Administration School Teachers from ad hoc allotment/regularisation of Directorate of Estates general pool accommodation is clearly one of policy and this ruling in no way advances the applicant's case. In Gool R.P. Vs. UOI AIR 1986 Delhi 406, the Delhi High Court had held that where the employee of a Govt. press in Delhi was allotted a Govt. quarter from the pool of that press and his son was working in another press in Delhi and was residing with him for three years immediately preceding the date of his retirement, the son could be ~~not~~ allotted the same quarter. Manifestly the facts in that case are entirely different from the facts of the present one, and therefore the two cases are distinguishable. Reliance has also been placed on the judgements in Nirmal Sharma Vs. UOI 304/94; Sudesh Kalhon Vs. UOI

OA 2061/92; S.K. Singhal Vs. UOI OA 247/94; Maya Dubey Vs. UOI OA 201/94; Vimla Singhal Vs. UOI OA 1191/94; Dr. A. Galmer Vs. UOI OA 1249/91; V.D. Bhatt Vs. UOI OA 1685/90; B. Narayan Sharma Vs. UOI 831/90; and Mahesh Gupta Vs. UOI OA 831/90.

7. Nirmal Sharma's case is also distinguishable, on facts as both she and her husband were teachers in Delhi Administration, which is not the case here. Moreover, that judgement has not noticed O.M. dated 29.12.91. Similarly Kalhan's case is distinguishable as both Smt. Sudesh Kalhan and her husband were Central Govt. employees which is not the case here. S.K. Singhal's case is also distinguishable as both that applicant and his father were teachers in Delhi Administration and furthermore the O.M. dated 29.12.91 was not noticed. Similarly, in Maya Dubey's case the O.M. dated 29.12.91 has not been noticed, and furthermore in that case the applicant's husband died in harness which is certainly not the case here. Similarly, Vimla Singhal's case is distinguishable on facts as in that case both she and her husband were teachers serving under Delhi Admn. Similarly, Dr. Galmer's case is also distinguishable as neither she nor her husband were teachers or staff in schools under Delhi Administration. In V.D. Bhatt's case, no specific direction for allotment/regularisation has been given and the respondents have mainly been directed to consider the case of that applicant on merits in accordance with law and pass proper orders for the allotment of the accommodation which the applicant is entitled to. Hence this judgement does not help the applicant. B. Narain Sharma's case is also distinguishable as both the applicant and his father were

teachers in Delhi Administration which is not the case here. Similarly Mahesh Gupta's case is distinguishable as both the applicant and his father were Central Govt. servants, which is not the case here.

8. Shri Krishna has also relied upon the Tribunal's judgement dated 16.8.93 in OA 2527/92 Smt. S.S. Madan Vs. UOI & Ors. It is true that by judgement the quarter allotted to her husband Shri J.C. Madan who retired on superannuation was ordered to be regularised in her name and in that judgement the O.M. dated 27.12.91 was noticed but ~~there~~ the regularisation was allowed, <sup>because</sup> Shri Madan had retired from service on 30.11.91 before the issue of the O.M. dated 27.12.91 whereas in the present case the applicant's husband retired from service on 31.1.93 much after the issue of that O.M. Shri Krishna has stressed that the SLP filed by the respondents in the Hon'ble Supreme Court was dismissed on 5.12.94, but a perusal of the copy of the dismissal order filed by him shows that it was dismissed on grounds of delay as the delay of 92 days had not been satisfactorily explained.

9. The respondents have relied upon the Tribunal's common judgement dated 6.7.94 in O.A. No. 2161/93 Smt. Surender Talwar Vs. UOI & Ors. and connected cases, where the common question in all those applications was decided whether teachers of Govt. institutions under the Directorate of Education, Delhi Administration were entitled to allotment/regularisation of general pool are in Delhi Administration as claimed by them, <sup>After</sup> noticing the allotment of Govt. Residences (General Pool in Delhi Rules 1963 as well as Directorate of Estates O.M.'s

dated 2.4.76, 1.5.81; SR 317-B-25; O.M. dated 3.11.93; the PP (EUD) Act as well as the O.M. dated 27.12.91; and SR 317-B-4 and also in Smt. S.S. Madan's case the Tribunal in a detailed and exhaustive judgement answered the question in the negative and dismissed those OAs, categorically holding that no advantage would accrue to those applicants consequent to the decision given in Smt. Madan's case. because, like in the case before us, the retirement had taken place after the issue of O.M. dated 27.12.91 and those applicants had the opportunity to apply to Delhi Administration for allotment of accommodation in their own right unlike Smt. Madan. This judgement also noticed many of the decisions relied upon by Shri Krishan in this case.

10. As a Coordinate Bench, we are bound by the decision in Smt. Talwar's case (Supra), which is on all fours with the present case both in terms of material facts as well as on propositions of law.

11. Applying the ratio of that judgement to this case, this O.A. fails and is dismissed. Stay orders, if any are vacated. No costs.

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)  
Member (J)

*S.R. Adiga*  
(S.R. Adiga)  
Member (A)