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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.2733/93

New Delhi, this the 27th day of October, 1994.

HON'BLE SHRI J.P.SHARMA MEMBER (J)
HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

Shri Jagbir Singh Draill
son of Shri Jai Singh
LDC, D/O Supdt. of Police,
CBI, Lok Nayak Bhavan,
New Delhi.

..Applicant

(By Advocate Shri B.Krishan)

Vs.

1. Union of India, through:
Director of Estates,
Directorate of Estates,
Nirman Bhawan, New Delhi.

2. The Estate officer,
Directorate of Estates,
Nirman Bhawan, New Delhi.

..Respondents

(By Advocate Shri VSR Krishna) ..

ORDER(Oral)

HON'BLE SHRI J.P.SHARMA MEMBER (J)

The applicant's father retired on 31-1-93 and was in occupation of government premises No.H-344, Kali Buri Marg, New Delhi, a type II accommodation. The applicant is serving as LDC in the office of Superintendent of Police, CBI, Lok Nayak Bhavan, New Delhi. After the retirement of his father the applicant made a request to the respondents in writing on the prescribed proforma on 2-2-93 for regularisation/allotment of the aforesaid premises in his name. He also filed an affidavit in another document. The respondents vide order dated 27-9-93 informed the office of the Superintendent of Police that the officers of the C.B.I are not eligible for general pool accommodation and the request of the employee cannot be acceded to. The notice of eviction was

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also served on the retiree in February 1993. A notice for recovery of damages has also been served @ Rs.40/- per sq.mtr. per month for the accommodation.

2. In this application filed in December 1993 the applicant has assailed the orders including the show cause notice for levying damages from 1-6-93 at the stipulated rate and prays for the grant of following reliefs:-

- (i) The respondent No.1 may be directed to regularise the allotment in respect of the premises bearing No.H.344, Kali Bari Marg, New Delhi in the name of the applicant from the date of cancellation in the name of the father of the applicant i.e. from 1-6-93, on normal terms of licence fee etc.
- (ii) The eviction order dated 17-12-93 passed by the respondent No.2 in respect of the above said premises may please be quashed.
- (iii) The applicant may not be made to pay any sort of damages/market licence fee/penal rent etc in respect of the above said premises and levy of damages may be quashed.
- (iv) Such other or further orders as this Tribunal may deem fit and proper may also be passed in favour of the applicant and against the respondents.

3. On notice the respondents contested the application and opposed the grounds of the reliefs on the basis that the applicant is ineligible for type II and type III accommodation as per Directorate's O.M. dated 26-10-93 copy of which has been annexed

with the counter. It is stated that for this type of accommodation CBI has its own arrangement and the staff is allotted by that department on the basis of their needs and requirements as per priority. The applicant cannot be given out of turn allotment from the general pool accommodation. Since the retiree did not vacate accommodation, he is liable to pay damages.

4. We have heard learned counsel of the applicant at length and during the course of hearing the counsel for the applicant has referred to the circular of November, 1987, May 81 a copy of which has been annexed with the application and also of O.M. dated 27-9-93 and 11-2-93 during the course of hearing. The same is taken on record and placed in Part 'A' of the official file. The counsel of the respondents has also filed the O.M. dated October 91 and 29-8-89. The same is also placed in part 'A' of the file.

5. We have considered the case of the applicant most sympathetically as he is a low grade employee. However the learned counsel for the applicant could not show any instructions, rule or any other such document that the applicant is entitled to accommodation from general pool as the circular/ O.Ms. coming before us exclude the applicant from allotment of general pool accommodation on the basis of the basic pay. The applicant is drawing his basic pay as Rs.1050/-; during the course of hearing Rs.1070/- and as per S.R.317-B-25 he is entitled to type II accommodation. The circular of October 1991 as well as of August 89 exclude the allotment of type II and type III accommodation to the employees of CBI from the general pool. Earlier we find that even type I was included for

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allotment to the staff of CBI. The counsel for the respondents has pointed out that the CBI has its own arrangement and while dictating this judgment the learned counsel for the applicant also placed before us a document showing that the applicant has since been considered out of turn allotment and his priority is at No.1 for allotment of an accommodation in CBI control. In view of this we find that the order of not giving out of turn allotment from general pool accommodation to the applicant by the Director of Estates needs no interference.

6. Since the retiree remains in unauthorised occupation of the premises he can only be evicted in accordance with law. We are not considering that matter here nor we are considering that matter of leaving a part as it is premature but as no damages have yet been calculated by the Director of Estates and proceedings have not yet been initiated.

7. The learned counsel for the applicant however pointed out that there are certain decisions by the Principal Bench in OA 2061/92 Smt. Sudesh Kalhan Vs. UOI decided on 13-8-93, OA 831/90 BN Sharma Vs. UOI decided on 15-5-91, OA No.2527/92 Smt. SS Madan & Anr. Vs. UOI decided on 16-8-93, OA No.1226/91 Mrs. E.M. Tigga Vs. UOI & Ors. decided on 19-5-93, OA No.304/94 Smt. Nirmal Sharma Vs. Secretary, Ministry of Urban Development decided on 24-5-94, OA 1249/91 Dr. A. Golmoi & Anr. Vs. UOI decided on 4-9-92. Reliance has also been placed by the applicant on the decision on the case of Goel R.P. & Ors. Vs. UOI & Ors. decided by Delhi High Court reported in AIR 1986 Delhi p.406. In these reported cases the allotment of government residence was directed in favour of the son from the general pool. Normally such cases are

governed by the decision and policy of the government reflected in the instructions issued from time to time. In view of the above facts and circumstances, the application is devoid of merits and is therefore dismissed leaving the parties to bear their own cost. However it is observed that the respondents will take a lenient view regarding the damages to be imposed as the applicant has been earmarked for allotment/accommodation in the CBI by letter of 17th January, 1994.

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(P.T. THIRUVENGADAM)
Member (A)

MP

J.P. SHARMA

(J.P. SHARMA)
Member (J)