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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 781/93

New Delhi: 23rd September, 1994.

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

Dr. (Mrs) K.A.Shyamini,
D/o Shri V.K.Ayyapunny,
aged about: 31 years,
r/o A-187, Pandara Road,
New Delhi.

AND EMPLOYED AS:

Senior Medical Officer in the
CGHS, Ministry of Health
and Family Welfare,
Government of India,
New Delhi.

.....Applicant.

By Advocate Shri B.B.Rawal.

Versus

1. Union of India through
Secretary,
Ministry of Urban Development,
Govt. of India,
Nirman Bhavan,
New Delhi.

2. The Secretary,
Ministry of Health and Family Welfare,
Govt. of India,
Nirman Bhavan,
New Delhi.

3. The Director of Estates,
Directorate of Estates,
Ministry of Urban Development,
Govt. of India,
Nirman Bhavan,
New Delhi

.....Respondents.

By Advocate Shri Madhav Panikar

JUDGMENT

In this application, Dr. (Mrs) K.M. Shyamini, Senior Medical Officer, CGHS, New Delhi has prayed for quashing of Directorate of Estate's letter dated 23.2.93 (Annexure-A) and 29.3.93 (Annexure-B) calling upon her to pay the penal rent; to regularise Quarter No. A-187,

Pandara Road, New Delhi in her name; to refund the amount of Rs. 10,400/- which, she has alleged, was to pay or alternatively to adjust the same towards the licence fee to be paid by the applicant for regularisation of Quarter No. A-187, Pandara Road, New Delhi; together with awarding of cost.

2. Shortly stated, the applicant is the married daughter of Shri V.K. Ayyapunny who retired from Govt. service on 28.2.89, on which date he was in occupation of General Pool Quarter No. A-187, Pandara Road, New Delhi. While he was in service, he was maintaining his family along with the applicant who joined service as Medical Officer in CGH in 1987. It is stated that she was not drawing HRA and was sharing accommodation with her father. In O.A. No. 1259/91, the applicant prayed that the said quarter allotted to her father i.e. A-187, Pandara Road, be regularised/allotted in her favour. By judgment dated 21.5.92 in that O.A., the respondents were directed to regularise the said quarter in the name of the applicant if she was eligible for that quarter, or alternatively allot some other unit of accommodation of Type II to which she was eligible on out of turn basis in a nearby locality to the extent possible, subject to her an undertaking that she would maintain the retiree and his family. It was further stated in that order that the applicant would be liable to pay rent/damages as per extant rules for occupation of the existing premises beyond 28.2.89, which would be payable till such time as the existing/alternative accommodation was not regularised.

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3. According to the respondents, as per allotment rules, the applicant was eligible for allotment of one type below her entitlement. As her basic pay was Rs.2275/- p.m. at the time of her application, she was entitled for Type 'C' and thus she was eligible only for Type II accommodation and not for quarter No. A-187, Pandara Road which is a higher type (type IV). The respondents state that in compliance to the Tribunal's judgment, the applicant was requested to clear the dues upto September, 1992 to enable them to allot her a quarter of entitled type but instead of clearing the dues, she kept filing representations for regularisation of quarter No. A-187, Pandara Road. They state that during pendency of O.A. 1259/91, the applicant deposited Rs.10,400/- on 16.7.1991. According to the respondents, the delay in issue of sanction for eligible type of accommodation to the applicant to clear the dues and her non-eligibility for quarter No. A-187, Pandara Road. The respondents state that they are ready to sanction the allotment as admissible under the regularisation rules as soon as the applicant clears the dues.

4. I have given this matter my careful consideration. A close reading of para 5 (c) of the Tribunal's judgment dated 21.5.92 makes it clear that the direction to regularise the existing accommodation in the applicant's name or allot her alternative accommodation of the type to which

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she was eligible on out-of-turn basis was to be implemented in the event she paid the rent/damages as per extant rules for the occupation of the premises allotted to her father and retained beyond his retirement on 28.2.1989. The applicant had cleared the dues upto 31.5.91 and it was for her to have cleared the dues from 1.6.91^{atleast} till the date of receipt of the copy of the judgment dated 21.5.92 to enable the respondents to perform their part of the directions contained in the judgment dated 21.5.92. This she did not do, but instead kept on pressing for regularisation of quarter No. A-187, Pandara Road (type-IV) to which she was not eligible, because at the time of her father's retirement, which is the operative date, she was entitled only to type III accommodation and on the 'one type below' principle was eligible only for a type II quarter. It is noted from the judgment dated 21.5.92 that the respondents as a special case were even willing to consider allotting her a type III quarter, but in no case was she entitled to allotment of a type IV quarter at that point of time.

5. In the light of what has been stated above and particularly in the background of the Tribunal's judgment dated 21.5.92, this ^{in impugned order} application ^{in this CA.} merits no interference and ~~it~~ is accordingly dismissed. The stay orders passed earlier are hereby vacated. No costs.

Adige
(S. R. Adige)
Member (A)

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