

Central Administrative Tribunal, Principal Bench

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O.A. No. 932 of 1993

New Delhi this the 9th day of August, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman(A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Kumari Renu Kohli  
D/o Late Shri K.K. Kohli  
R/o B-47 Vijay Nagar,  
New Delhi-9.

....Applicant

By Advocate Shri B. Krishan.

Versus

1. Union of India through its  
Secretary, Ministry of Urban Development,  
'C' Wing, 1st Floor, Nirman Bhawan,  
New Delhi-110 011.

2. The Director of Estates,  
Directorate of Estates,  
Nirman Bhawan,  
'C' Wing, 4th Floor,  
New Delhi-110 011.

....Respondents

By Advocate Shri Madhav Panikar.

ORDER (ORAL)

Hon'ble Shri S.R. Adige, Vice Chairman (A)

Applicant impugns the demand of damages in respect of quarter no. 874-D, Laxmi Bai Nagar, New Delhi imposed on her by letter dated 1.3.1993 and also impugns Office Memorandum dated 27.8.1987 and 1.4.1991 as being illegal and ultra-vires. She prays that she may be allotted a type-B accommodation on over riding priority on the strength of respondents sanction letter dated 1.3.1993 preferably in central locality within time bound limit without insisting upon payment of damages.

2. We have heard applicant's counsel Shri B.Krishan and respondents' counsel Shri Madhav Panikar.

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3. Applicant secured employment as Stenographer Gr'D in Directorate General, All India Radio on 28th October, 1987. At that point of time she was residing with her father Shri K.K.Kohli, who retired as Audit Officer, who was in possession as an allottee of Type-B quarter No. 847, Laxmi Bai Nagar, New Delhi. She applied for an out of turn allotment of government accommodation vide letter dated 25.1.1990 on the ground that her father had retired from service on 31.12.1989. Respondents rejected the said prayer on the ground that applicant was the owner of a house in Delhi.

4. Aggrieved by the rejection of prayer for out of turn allotment of accommodation, applicant filed OA 11/91 which after hearing, was disposed of by an order dated 21.2.1992. Meanwhile applicant's father expired on 21.5.1990. In the aforesaid order dated 21.2.1992 it was noted that the house which was owned by applicant's father at Vijay Nagar, Delhi consisted only of a one room tenement in a ruinous state and also stood demolished within the life time of her father and she was therefore eligible for out of turn ad hoc allotment of a type-B quarter. The Bench in its aforesaid order dated 21.2.1992 also noticed applicant's claim that she should not be made to pay any sort of damages/market rent/penal rent in respect of quarter No. 874-D, Laxmi Bai Nagar, Delhi from the date of its cancellation in her father's name, and observed that applicant's father could have retained the house after retirement upto the maximum period allowed under the rules, but retention beyond this period was unauthorised. The Bench held that any prayer made by applicant regarding the question of damages/market rent/penal rent was premature at

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that stage and directed respondents to consider allotting her eligible accommodation on out of turn ad hoc basis within six weeks, with a further direction that the question whether the applicant or the legal heirs of the deceased was liable to pay licence fee or damages for the premises 874-D, Laxmi Bai Nagar be decided by respondents as per extant rules.

5. Subsequently, by letter letter dated 1.3.1993 (Annexure A-IV) the respondents communicated their decision for allotting type-B quarter to applicant on out of turn basis, subject to depositing a sum of Rs. 36,349/- which was said to be outstanding against her father Sh. K.K.Kohli.

6. Shri Krishan has argued that respondents' demand of Rs. 36,349/- is illegal and arbitrary, as it has been made without following the provisions contained in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, and is based only upon certain executive instructions contained in respondents' OM dated 27.8.1987 and 1.4.1990.

7. In this connection Shri Krishan has stated that the applicant would have no grievance, if the assessment of the damages, if any, to be levied upon <sup>her</sup> was determined in accordance with law, by following the procedure prescribed under the Public Premises (EUO) Act, and also took into account the fact that she was denied ad hoc allotment of accommodation, upon the retirement of her father for no fault of her own, as was eventually established by the Tribunal's order dated 21.2.1992, and was also protected by the interim orders passed in OA no. 11/91 restraining respondents from evicting her from the premises in question.

8. Shri Madhav Panikar on the other hand stated that respondent would have no objection if the quantum of penal rent/market rent/damages, if any, is determined after following the provisions prescribed in the Public Premises (EOU) Act, but only after the same was determined and paid by applicant, would respondents be in a position to implement their letter dated 1.3.1993, and allot suitable type-B accommodation to her on ad hoc out of turn basis.

9. We note that the Tribunal by its order dated 21.2.1992 itself had held the applicant eligible for out of turn allotment of a type-B quarter and respondents themselves by their letter dated 1.3.1993 were willing to allot her a suitable Type-B quarter on out of turn ad hoc basis. The only problem faced by respondents in this regard was the question of clearance of the dues which they claim to be Rs. 36,349/-. Shri Panikar has also stated that respondents would have no objection if the exact quantum of dues are determined in accordance with the procedure prescribed in the Public Premises (EUO) Act.

10. We note that by the Tribunal's order dated 21.2.1992 applicant was declared eligible for out of turn ad hoc allotment of Type-B accommodation on the retirement of her father on 31.12.1989. Since then nearly 10 years have passed, if applicant is required to wait till the quantum of penal rent/market rent/damages is determined in accordance with the procedure prescribed under the Public Premises (EUO) Act, considerable more time is likely to pass. It is


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also not a case when applicant will be retiring on superannuation shortly which might make recoveries from her difficult.

11. In the particular facts and circumstances of this case, therefore, and in the interest of justice, without considering it necessary to go into the legal validity of impugned OM dated 27.8.1987 and 1.4.1991, this O.A. is disposed of with a direction to respondents to implement their own order dated 1.3.1993 and allot the applicant a suitable type-B quarter on out of turn basis, within three months from the date of receipt of this order without insisting on prior clearance of dues in respect of quarter no. 874-D, Laxmi Bai Nagar from her but without prejudice to respondents' claim to recover all such legal dues, if any, from applicant determined in accordance with the provisions of Public Premises (EUO) Act. In this connection applicant's counsel Shri Krishan, has stated that applicant would pay whatever dues, <sup>are</sup> recoverable from her for overstaying in the quarter No. 247-D, Laxmi Bai Nagar, Delhi as determined in accordance with the provisions contained in PP(EUO) Act, after exhausting such legal remedies as are available to her.

12. The O.A. stands disposed of accordingly. No costs.

  
(KULDIP SINGH)  
MEMBER (J)

  
( S. R. ADIGE )  
VICE CHAIRMAN (A)

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