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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD

Dated: Allahabad this <sup>24/4</sup>.....day of <sup>May</sup>.....1996

CORAM: Hon'ble Mr D.S.Baweja,, Member (A)

ORIGINAL APPLICATION NO.161 OE 1994

R.P.Chaudhary,  
Small Industry Promotion Officer (Mech.)  
Small Industry Service Institute  
107, Industrial Estate,  
Kalpi Road, Kanpur - Applicant  
(by Advocate Sri A.B.L.Srivastava )

Versus

1. Union of India through the Director  
of Estates, Nirman Bhawan, New Delhi
2. The Superintending Engineer,  
Allahabad Central Circle, C.P.W.D.,  
841, University Road, Allahabad
3. The Executive Engineer,  
Kanpur Central Division, C.P.W.D.,  
9/78, Arya Nagar, Kanpur - Respondents  
(By Advocate Sri C.S.Singh)

O R D E R

(By Hon'ble Mr D.S.Baweja, Member (A))

This application has been filed under section 19 of the Administrative Tribunal Act 1985 being aggrieved of non-all<sup>o</sup>tment of the quarter as per his date of registrarion.

2. The applicant is posted at Kanpur as a Small Industry Promotion Officer under Small Industries Service Institute, Kanpur. He had submitted an

application for allotment of the residential accommodation for Type III quarter on 5.2.90 in the prescribed form to Respondent No.3 (Executive Engineer, Kanpur) through proper channel which was forwarded vide letter dated 9.3.90. Thereafter he sent a reminder on 22.1.93 and also met Executive Engineer (Respondent No.3) on 1.2.93 as the applicant came to know that somebody, who had applied later on had been allotted the house. He was given to understand that his earlier application had not been received. He was advised to send the fresh application. The applicant again sent the application duly filed in dated 2.2.93 enclosing the copy of the earlier application dated 5.2.90. This was also forwarded through proper channel vide letter dated 8.2.93.

4. This was followed by several reminders endorsing copies to the higher authorities. However, neither the allotment was done nor any reply was given. Being aggrieved, the application has been filed on 3.1.194.

3.1 The applicant has made several averments alleging the irregularities being committed on the allotment of the quarters thereby (i) allotting accommodation arbitrarily without keeping in view the date of registration (ii) Arbitrarily and illegally keeping nine type III quarters reserved <sup>for</sup> ~~two~~ C.P.W.D. Staff contrary to the rules (iii) allotting accommodation to those, who are not staying in the quarters and subletting the same.

5. In the process, one Sri Babu Lal, J.E. (Electrical) C.P.W.D. whose registration date is later than the applicant has been allotted type III quarter vide order dated 8.9.91.

6.4 The applicant has prayed for following reliefs:  
(i) ~~That this Hon'ble Tribunal may graciously~~

(b) To issue a direction to respondent No. 3 to desist from keeping 9 Type III General Pool quarters kept reserved for his staff and issue allotment of one Type III quarter in favour of applicant.

(ii) To issue directions to respondent No. 1 and 2 to investigate the improper, arbitrary and illegal allotment made to Sri Babu Singh J.E. (Electrical) C.P.W.D., B.N. Dwivedi of CGHS and other allottees, who are illegally making capital out of the allotment made to them at the cost of other employees, who are eligible and in need of Govt. accommodation and causing loss to Government as well.

(iii) Restraining respondent No. 3 to make any fresh allotment of accommodation herein after till the applicant is allotted the General Pool Government accommodation.

5. The applicant had prayed for interim relief restraining allotment of any Type III quarter during the pendency of the application. The same was allowed vide order dated 8.2.94 and is continuing.

6. The respondents in the counter have admitted that the revised application dated 2.2.93 for the allotment of the quarter in Gulmohar Vihar was received in the office of the respondent No. 3 on 20.3.93. Sri Babu Lal, J.E. (Elect.), C.P.W.D. was allotted quarter on 8.8.91 as per his turn.

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The earlier application dated 5.2.90 had not been received by the Respondent No.3. The applicant also did not make any representation against the allotment of the quarter to Sri Babu Lal.

2. As per the application dated 2.2.93, he is very much down in the priority list and he cannot be allotted quarter at the present.

3. As regards the other allegations, the respondents have submitted that nine quarters have been reserved for the essential staff of C.P.W.D., who are required to be housed in the colony for maintenance of the buildings.

4. All the allotments are being done as per the policy instructions laid down and there is no illegality or arbitrariness in the allotment of the quarters.

5. About the alleged subletting of the quarters, a Committee has been set up to enquire into the complaints and the applicant can make complaint to the Committee giving the details. This is not an issue to be agitated before the Tribunal.

6. The Respondents have also averred that the applicant is time barred as the quarter was allotted to Sri Babu Lal in 1991 and O.A. is filed in 1994.

7. In view of the above submissions<sup>with</sup>, the grounds<sup>the application</sup> taken by the applicant is time barred and is also misconceived and deserves to be rejected.

8.7 Heard the Counsel for the parties. We have also examined the material on record.

8.8 A careful consideration of the reliefs prayed for reveals that the issues raised are of public interest

The applicant has not brought out as to how the subletting of the quarters has prejudiced his case. The cause of action to the application arises only to the extent of the allotment of the quarter ~~only to the extent of the allotment of the quarter~~ is done to any one, who is below him as per the date of registration. If the allotted quarter is as per the turn and as per the rules, is subletted by anybody, it is matter for the administration to tackle. The Tribunal cannot function as an investigating agency and also adjudicate in the matter. The respondents have submitted that a Committee has been set up to look into the complaints of subletting and the applicant is free to utilise this <sup>forum</sup> ~~form~~ to bring the cases of subletting to the notice of the Administration.

~~Para. 9~~ 9. As regards the reservation of nine quarters for the C.P.W.D. Staff, the respondents have explained that the same has been done for housing of the essential staff for maintenance of the buildings. The applicant on the other hand has averred that this reservation is illegal and arbitrary. No rules or policy instructions which prohibit the earmarking of the houses for the purpose indicated by the respondents have been linked. In fact the applicant had prayed that these details be made available by the respondents and thus prayer was not allowed. In our ~~opinion~~ <sup>opinion</sup> the earmarking of the quarter for any essential staff is an administrative matter. Judicial interference will arise only if there is any violation of statutory rules.

~~Para. 10~~ 10. The next pleading is with regard to illegality and arbitrariness in the allotment of the quarters. The respondents have strongly refuted this allegations. Except the allotment of the quarter to

Sri Babu Lal which has been the cause of action to the applicant, No substantial matter has been brought on record by the applicant except general statements in support of this allegation. The application can make out a case of illegal and arbitrary allotments to the extent ~~if~~ he is aggrieved by the same. We, therefore, find no merit in this submission.

~~12.11~~ 11 In view of the discussions made above, we see no merit in the reliefs either than that of allotment of the quarter to that of Sri Babu Lal.

~~12.12~~ 12 The applicant has perhaps sought to raise these issues to make out a case that he has been denied the allotment of the quarter which was due to him. The case issue considering the rival contention is whether the allotment of the quarter in 1991 to Sri Babu Lal was irregular. As per the facts brought out, the applicant originally applied for the quarter vide his application dated 5.2.90 and the same was forwarded through the proper channel also. The Respondents have averred that the same had not been received by the respondent No.3 and might have been misplaced when the applicant represented in 1993, he was advised to submit fresh application and the same was sent by the application enclosing his original application also. The Respondents have not come out with any explanation in the counter as to whether any investigation was done with regard non receipt of his original application. No reply has been also given to several representations made by the applicant advising him that his date of registration will count

from the date of fresh application.

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20.13. <sup>above</sup> This shows that no serious note of the representation was taken. The pleading of respondents is that the application is time barred as he did not represent when Sri Babu Lal was allotted the quarter vide letter dated 8.8.91 and filed O.A. in 1994. This plea can be accepted if the copy of the allotment order was sent to all the offices for the information of the staff. There is no averment to this effect. How the applicant is expected to know if the allotment of the quarter <sup>has been done</sup> to any junior to him? The applicant represented when he came to know of this allotment. In view of this we are unable to accept the plea of limitation made by the Respondents.

21.4 It is admitted fact that the date of registration of the applicant is earlier to that of Sri Babu Lal if his original application dated 5.2.90 sent through proper channel had been rejected. Therefore, applicant would have been eligible for the quarter which has been allotted to Sri Babu Lal. During the hearing the learned counsel for the respondents fairly conceded that once the applicant made a representation, the matter should have been investigated and the registration date of the applicant should have been restored as per the original application as the same duly forwarded by the concerned officer to Respondent No.3. The quarter allotted to Sri Babu Lal should have gone to the applicant. However, it will be unfair to give any direction to get the said quarter now vacated from Sri Babu Lal as there is nothing on the record to show that he has a role in the non-registration of the application of the applicant. <sup>dated 5-2-90</sup> However, ends of justice will be met with if the registration of the applicant is restored and he is allotted the first available quarter. 8-

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22.15.0 In view of the above discussion, the application is partly allowed with the following directions:-

- (i) The eligibility of the applicant for the the allotment of type III quarter will be considered with reference to the date of registration as per the original application dated 5.2.90
- (ii) He will be allotted the vacant quarter / the first available quarters with the <sup>above</sup> date of registration.
- (iii) The interim order restraining the allotment of any quarter during the pendency of the application is vacated to comply with the above directions.
- (iv) No order as to costs.

Member (A)

Member (J)

RJ