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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A.No.497/1995

Date of order: 4.12.1997

B.K.Bhattacharjee son of Shri Dhirendra Nath, aged about 49 years, b/c Bangali, at present posted as Scientific Assistant at Meteorological Centre, Dev Nagar, Jaipur.

: Applicant

Versus

1. Union of India through the Dy. Director General Meteorology, Regional Meteorological Centre, Lodhi Road, New Delhi - 110003.
2. The Director, Meteorological Centre, Dev Nagar, Tonk Road, Jaipur.
3. Shri P.K. Sharma, Scientific Assistant, posted at Centre Meteorological Office, Sanganeer Airport, Jaipur.

: Respondents

Mr. Shiv Kumar, counsel for the applicant
Mr. V.S. Garjar, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRATAP, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRATAP, MEMBER (JUDICIAL))

The applicant herein has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to seek a declaration against the respondents to the effect that the action of the respondents in allotting the Quarter No.16 type IV D to Shri P.K. Sharma, respondent No.3, is illegal and as such is null and void. It has further been prayed that the respondents be immediately directed to withdraw the order of allotment in favour of respondent No.3 by cancelling it forthwith and to allot it to the applicant.

2. Facts which are not in dispute are that the applicant is serving in the Department of Meteorological Centre, Jaipur in the capacity of Senior Observer at

Sanganer Airport since 29.3.1989. He was provided Government accommodation Type-III-C for his residence with his family vide allotment order dated 6.7.1989 (Annx.A-1). Presently, the applicant is holding the post of Scientific Assistant and is drawing emoluments in the pay range of Rs. 1980 including Rs. 30/- as stagnation increment. It is the case of the applicant that there being only one Type-IV-D quarter which was in occupation of one Shri S.S. Bhandari till 31.12.1994, it was vacated by Shri Bhandari on 31.12.1994 itself and became vacant for allotment. He applied vide application dated 10.1.95 addressed to the Deputy Director General Meteorology, Regional Meteorological Centre, Delhi through proper channel on 10.1.1995 (Annx.A-2) to allow him to change his Type-III accommodation to the recently fallen vacant accommodation No.16 IV-D. It is the grievance of the applicant that as he was away on leave from 22nd of May, 1995 and returned in the last week of June, 1995, on return he found that the Type IV accommodation has been allotted to one Shri P.K.Sharma, respondent No.3, a person junior to him. He, therefore, had no option but to apprise the situation to Deputy Director General Meteorology (for short 'D.D.G.M!'), R.M.C. New Delhi to seek a cancellation of allotment order made in favour of respondent No.3 as the allotment has been made mala fide and in violation of the principle of seniority as also the Rules applicable thereto.

3. The respondents have contested this application by filing a written reply thereto. In the reply, it is the stand of the respondents that no sooner the

accommodation in question fell vacant, applications were invited till 9.1.1975 vide notification dated 2.1.1998 (Annx.R-1). Five persons detailed in Annx. R-1 dated 17.1.1995 applied and this communication was also forwarded to the D.D.G.M., E.M.C. New Delhi. In consequence thereof vide order dated 23.1.1995 (Annx.R-3) the said accommodation Quarter No.16 Type-IV-D was allotted to Shri R.K.Sharma, respondent No.3, in compliance of which, Shri R.K.Sharma occupied the allotted accommodation on 27.1.1995 (Annx.R-4). It has, therefore, been urged that the applicant having not applied within the stipulated period, he is not entitled to claim any relief whatsoever, nor can claim cancellation of the allotment order Annexure R-3.

4. I have heard the learned counsel for the applicant Shri Shiv Kumar as also for the respondents Shri V.S.Gurjar and have examined the record in great detail.

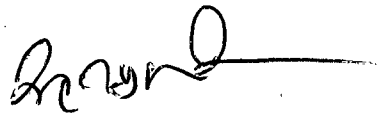
5. From a perusal of the pleadings and the documents filed by the applicant himself, it is discerned that the applicant himself is responsible for non-allotment of the accommodation in question to him. On the one side he asserts that he applied for allotment of the accommodation in question on 10.1.1995 and on the other hand he says that he came to know about the allotment in favour of Shri R.K.Sharma only after his return from leave in the last week of June, 1995. According to his own pleadings, he has been all through in Jaipur before he proceeded on leave in the second week of May, 1995, whereas, the applications were invited by the respondents on 2.1.1995 fixing the last date of receipt of applications as 9.1.1995; the allotment was made on 23.1.1995 and the allottee Shri R.K. Sharma did also occupy

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the accommodation on 27.1.1995 (Annex.R-4). It, therefore, cannot be said that the applicant applied in time for allotment by way of changing his earlier allotted accommodation. Moreover, Para-II & III of his letter dated 31.7.1995 (Annex.A-3) addressed to the D.D.G.M., P.M.C. New Delhi are also significant and relevant and speaks about the mind of the applicant in respect of the question of allotting him the disputed quarter No.16 IV-D. In para II of the aforesaid letter, he in fact does not insist that this accommodation be allotted to him, instead of it he makes a request to the DDGM that in case it is not possible to allot him this accommodation, it be allotted to a responsible Gazetted Officer who has applied for the same alongwith him. His averment in last para of this letter to the effect that he would have submitted this application regarding change/allotment of quarter within the prescribed date, but he could not do so because he was on long leave, exhibits that he is not approaching the Tribunal with clean hands. This is also in contradiction to the stand taken by the applicant in his pleadings. From the above discussion, it is apparent that there has been no illegality or irregularity on part of the respondents in allotting the accommodation in question i.e. Quarter No.16 Type IV-D to respondent No.3 Shri B.K. Sharma.

6. The application, therefore, has no merit and is dismissed with no order as to costs.


(Ratan Prakash)
Judicial Member