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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5.

O.A. NO. 3/1994
T.A. NO.

DATE OF DECISION 12-7-1996.

Kumari Shibani Dutta

(PETITIONER(S))

Mr.J.L.Sarkar, Mr.M.Chanda, Mr.A.Deb Roy
Mr.S.K.Deb Purkayastha.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr.G.Sarma, Addl.C.G.S.C.

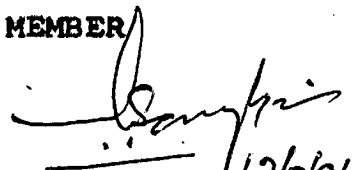
ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE **SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER**

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ? yes
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ? No.

Judgment delivered by Hon'ble **ADMINISTRATIVE MEMBER**


12/7/96

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.3/1994

Date of Order: This the 12th Day of July 1996.

HON'BLE SHRI G.L.SANGLYINE , ADMINISTRATIVE MEMBER

Kumari Shibani Dutta,
Upper Division Clerk,
Cheque Drawing & Disbursing Section,
North Eastern Circle Office,
Survey of India, Shillong... .. Applicant.

By Advocate Mr.J.L.Sarkar with Mr.M.Chanda, Mr.A.Deb Roy
Mr.S.K.Deb Purkayastha.

-Vs-

1. Director,
North Eastern Circle,
Survey of India, Shillong.
2. Surveyor General of India,
Dehra Dun(U.P.);
3. Union of India
represented by the Secretary
to the Government of India,
Ministry of Science & Technology, Respondents.
New Delhi.

By Advocate Mr.G.Sarma, Addl.C.G.S.C.

O R D E R

SANGLYINE, ADMINISTRATIVE MEMBER:

In this application the applicants claims the
following reliefs:-

- 1) Quashing/setting aside (i) the order No.A-12085/
13-A-I/C dated 18-11-1993 and (ii) the order
dated 14-12-1993.
- 2) A direction to the Director, N.E. Circle, Survey
of India, Shillong, to consider the case of
the applicant for allotment of a Government
quarter of her entitlement consequent on the
retirement of her brother with whom she was
staying for the prescribed period on the basis of

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Government of India orders read with survey of India Allotment Rules, 1987 and issue necessary orders in this regard for allotment of a suitable quarter either on priority or out of turn basis and/or Adhoc basis or by earmarking a quarter for ladies pool;

2. The order dated 18-11-1993 is an order rejecting the prayer of the applicant to allot her the quarter No.C-22 occupied by her brother, who had retired from service, in relaxation of Rule 317-AH-24 and a suggestion to her to apply for a Bachelor's quarter if she so desired. The order dated 14-12-1993 is an order rejecting her claim that she be allotted quarter on priority basis as she was an employee working in the Pay and Accounts office by invoking the provisions of para 3 (a) of Rule SR 317-AH-6.

3. The facts, in brief, are as narrated hereinafter. Shri D.K.Dutta, who retired as Headclerk in the office of Survey of India, Shillong on 28-2-1993, was the elder brother of the applicant. He was allotted the quarter No.C-22 in the Survey of India Estate. The applicant is also an employee of the Survey of India since 1-4-1970 firstly, as a Lower Division Clerk and later as an Upper Division Clerk and she resided with her elder brother in that quarter throughout except for a brief period from 28-12-1980 to 1-12-1981 when she was posted in Calcutta. Sri Dutta vacated the quarter on 10-1-1994. The applicant was desirous to have this quarter allotted in her name and accordingly by her letter dated 19-10-1993 she requested the Director, North Eastern Circle, Survey of India, Shillong to allot her the

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quarter No.22 C after 31-12-1993 as a special case by exercising his discretionary power. Having failed in this request she submitted another application dated 26-11-1993 seeking allotment of a Type 'C' quarter on priority basis under para (3) (a) of SR-317-AH-6 on the ground that she was part and parcel of RP & AO, Calcutta. This prayer was also rejected.

4. SR 317-AH-9(1) of Appendix VIII Allotment of Government Residences in the Survey of India Estate Rules, 1987 deals with out of turn Allotment of quarters to relatives of a Government servant who was in occupation of a Government quarter at the time of superannuation or at death while in service. It reads as follows:-

- (1) The allotment of a residence may be made by the Director to the son or daughter or wife/ husband or father or mother of a Government servant in occupation of Government residence, who superannuates from or dies while in Government service, provided that the said relative is himself/herself a Government servant employed in the Survey of India and CPAO/RPAO or secures an appointment therein within 12 months of the death, in harness of the Government servant and had stayed with the Government servant who superannuates or dies while in service, for a minimum period of 3 years immediately prior to the date of such superannuation or death. He/she may be allotted the same residence which the allottee was occupying if she/she is also eligible for the sametype or higher type of residence, in other cases, he/she may be allotted the Type of residence to which he/she is actually eligible provided that such a residence is *Vacant*

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vacant and that in case such a residence is not vacant he/she may be allotted a residence immediately next below type if this is acceptable to him/her.

The rule clearly excludes sister of the Government servant from the various specific relatives mentioned thereunder. When the rule is clear and unambiguous there is no necessity to introduce extraneous matter into the rule as had been the attempt of Shri Sarkar by trying in his submission to bring into this Rule the definition of the term "family" as defined in S.R.317-AH-2(f). The discretion under S.R. 317-AH-9(1) is vested on the Director and the Director cannot exercise the discretion unless the applicant relative is a relative specified under this sub-rule. The applicant for the quarter in this case is the sister of the superannuated Government servant and the respondents had acted in accordance with the above quoted rule in rejecting the claim of the applicant for allotment of quarter out of turn on the ground mentioned in her representation dated 19-10-1993. Survey of India has its own rules for allotment of quarters to its employees as mentioned hereinabove. However, even if M.U.D., Director of Estates, O.M.No.12035(14)/82-Pol.II (Vol.II)(i) dated 19-11-1987(Annexure II) is made applicable to Survey of India, the respondents have not contravened this O.M. in rejecting the claim of the applicant as in this O.M. also "sister" is excluded from the terms dependants/relations of a retiring Government servant for the purpose of allotment of Government quarters as contemplated therein.

5. The applicant has also sought to invoke the provisions of S.R. 317-AH-6(3)(a) and had submitted a representation dated 26-11-1993 for allotment of a type 'C' quarter on the

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ground that by virtue of duties allotted to her functionally she was a part of the RP & AO, Calcutta. This rule reads as follows:-

- (3) The Director concerned may also allot suitable residences to the personnel of other Government Departments whose presence is considered necessary and essential and maintenance for the upkeep of the Estate:

Provided that this allocation will be subject to such safeguards as may be considered necessary at the time in the interest of the Survey of India and the Director concerned if he deems fit may cancel such allotment. The order of priority of claims for residences shall be as follows:

- (a) Personnel of the Survey of India/CPAO/RPAO.

Allotment of quarters under this rule is for definite purposes. Under this sub rule 3(a) the claim of the staff of the RPAO to priority is the last. The applicant was appointed as a staff in the Survey of India and not in the RPAO. Merely because at the relevant time she worked in the cheque Drawing and Disbursing Section that does not turn her into a personnel of RPAO. Therefore, the Director could not have exercised his discretion under this sub-rule on the ground stated by the applicant in her representation dated 26-11-1993. Further, it is within the discretion of the Director to consider whether allotment of quarter to the applicant under this sub-rule would fulfil the purpose contemplated in the sub-rule. It is also purely within his judgment and discretion whether it is in the interest of Survey of India to

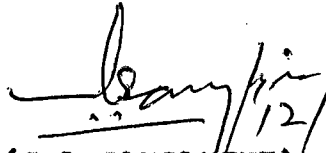
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to allot a quarter on priority basis to another employee of the Survey of India. As such the contention that discrimination was shown to the applicant by the respondents in rejecting her claim for allotment of quarter on priority basis while granting allotment to others is unacceptable. In the facts and the circumstances, the respondents had not acted in contravention of this sub-rule by refusing allotment of quarter to the applicant.

6. The other contention of the applicant is that had there been a Lady Officers' Pool of accommodation in the Survey of India Estate as contemplated in M.U.D., Director of Estates O.M.No.12035(10)/84-Pol.II, dated 10-11-1987 she would have been allotted a quarter from the pool as she was the seniormost lady officer. It transpires that there is no Lady Officers' Pool of Accommodation in the Survey of India, Shillong. The issue of allotment of quarter to the applicant under such pool of accommodation had not been raised by the applicant before the competent authorities of the respondents. She had not also raised a contention before them that since it was their fault in not providing Lady Officers' Pool of accommodation in the Estate, her claim for allotment of quarters out of turn or on priority basis deserved special consideration. Therefore, her contention in this regard in this O.A. is not entertainable.

7. In the light of the above, the application is dismissed. No order as to costs.


(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER