

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.1530 OF 2017

New Delhi, this the 20th day of February, 2018

CORAM:

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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1. Smt. Anuradha Dhaul,
Aged 56 years, Group A,
W/o B.M.Dhaul,
Scientist 'F',
Solid State Physics Laboratory,
Lucknow Road, Timarpur,
Delhi 54
2. Sri B.M.Dhaul,
Aged 60 years, Group A,
S/o D.V.Dhaul,
Retired Member (Drainage),
Delhi Jal Board,
Qrs.No.2, Type V,
Jal Vihar Colony, New Delhi Applicants

(By Advocate: Mr.Suresh Tripathy)

Vs.

1. Directorate of Estates,
Through its Director,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
2. Delhi Jal Board,
Through its Chief Executive Officer,
Varunalaya, Jhandewalan Extension,
New Delhi Respondents

(By Advocate: Mr.Rajeev Kumar)

ORDER

Brief facts giving rise to the O.A., which are relevant for the purpose of deciding the issue involved in the present case and are not

disputed by either side, are that applicants are wife and husband. At the relevant point of time, applicant no.1-wife was working as a Scientist 'F' at Solid State Physic Laboratory, Timarpur, Delhi, under the DRDO, Ministry of Defence, Government of India, whereas applicant no.2-husband was working as Member (Drainage), Delhi Jal Board, under Government of NCT of Delhi, New Delhi. Applicant no.2 was in occupation of Bungalow No.2, Old Type V, Jal Vihar, Lajpat Nagar-I, New Delhi, which was in Delhi Jal Board Pool. Applicant no.1 was sharing the said accommodation with applicant no.2. Applicant no.2 was due to retire from service on 30.9.2016. Applicant no.1 submitted application for allotment of Type 5A/5B quarters under General Pool Residential Accommodation (GPRA) on 17.11.2015. While so, applicant no.1, vide her representation dated 5.1.2016 (Annexure A-4), requested the Director of Estates, New Delhi (respondent no.1) to allot in her favour the Delhi Jal Board Pool, Bungalow No.2, Old Type V, Jal Vihar, Lajpat Nagar-I, New Delhi, which was allotted to and occupied by her husband-applicant no.2, under inter-pool exchange policy. Respondent no.1-Directorate of Estates, vide letter dated 1.3.2016 (Annexure A-1), did not accede to the request made by applicant no.1 in her representation dated 5.1.2016(ibid), and advised her to bid in the GAMS for allotment of a Type VB accommodation under GPRA. Thereafter, applicant no.2, vide his representation dated 18.5.2016 (Annexure A-1), requested respondent no.2-Delhi Jal Board to allot/regularize the said Delhi Jal Board Pool, Bungalow No.2, Old Type V, Jal Vihar, Lajpat Nagar-I, New Delhi, in the name of his

wife-applicant no.1. Thereafter, both the applicants filed the present O.A. under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

- “a. quash the impugned order dated 1.3.2016 issued by Respondent no.1;
- b. direct that the Applicants are entitled to inter-pool exchange and resultantly, allot the present accommodation in occupation till the superannuation of Applicant no.1;
- c. pass such order or further order as may be considered fit.”

The applicants also prayed for the following interim relief:

- “a. grant an ad interim stay of the impugned order dated 1.3.2016 issued by Respondent No.1 and consequently, status quo with regard to the accommodation;
- b. pass such order or further order as may be deemed fit.”

2. The O.A. was placed before the coordinate Bench for hearing on the questions of admission and of interim relief on 4.5.2017 when the Tribunal directed issuance of notices to the respondents, and ordered that “In the meantime, the respondents will not take any coercive steps to remove the applicants from DJB QuarterNo.2 (Old Constructed), Type-V, Jal Vihar Colony, New Delhi.”

2.1 After granting the admissible period of retention of accommodation up to 31.5.2017 to applicant no.2 on his retirement from service on 30.9.2016, respondent no.2-Delhi Jal Board, vide order dated 23.5.2017, directed applicant no.2 to vacate the said accommodation by 31.5.2017 and hand over its possession to the Estate Manager, failing which the allotment would automatically stand cancelled from 1.6.2017 and

damages @ 40 times of normal license fee per month would be levied and recovered from him as per rule, and eviction proceedings under Sections 4 and 7 of the PP Act would also be initiated against him.

2.1.1 The applicants filed MA No.2569 of 2017 for the following interim reliefs:

- “a. stay the operation of the office order dated 23.5.2017 passed by Respondent no.2;
- b. hold that the aforesaid order dated 23.5.2017 is in disobedience of the order dated 4.5.2017 passed by this Hon’ble Tribunal.
- c. pass such order or further order as may be deemed fit.”

2.1.2 The coordinate Bench of the Tribunal, by its order dated 25.7.2017, stayed the operation of the office order dated 23.5.2017 passed by respondent no.2-Delhi Jal Board.

3. It is the stand of respondent no.1-Directorate of Estates that the Directorate’s O.M. No.12035/9/89-Pol.II(V.II), dated 19th September 2014, is not applicable to the case of applicant no.1, and, therefore, the request made by her was not acceded to by them, vide letter dated 1.3.2016 (Annexure A-1). The further stand taken by the respondent no.1-Directorate of Estates is that no proposal for inter-pool exchange was submitted by respondent no.2-Delhi Jal Board in accordance with the provisions contained in paragraph 6 of the O.M. dated 19.9.2014(ibid).

3.1 Respondent no.2-Delhi Jal Board has stated that the request of applicant no.2 in his representation dated 18.5.2016 has been turned down by them.

4. In the above context, Mr.Suresh Tripathy, learned counsel appearing for the applicant drew the attention of the Tribunal to the representation dated 18.5.2016 made by applicant no.2, as well as to some notings made by officials/officers of the respondent no.2-Delhi Jal Board, recommending allotment/regularization of the said Delhi Jal Board Pool accommodation in favour of applicant no1 by way of inter-pool exchange, and submitted that respondent no.2-Delhi Jal Board has acted arbitrarily and unreasonably in not disposing of the said representation dated 18.5.2016(ibid). It was also submitted by Mr.Suresh Tripathy that Mr.Neeraj Samwal, IAS, has allotted the said Bungalow No.2 Type V(Old), Jal Vihar, Lajpat Nagar, New Delhi, to himself, vide order dated 13.10.2016. It was further submitted by Mr.Suresh Tripathy that the application made by applicant no.1 for allotment of accommodation has not yet been disposed of by respondent no.1-Directorate of Estates. In support of the case of the applicant, Mr.Suresh Tripathy relied on the order dated 24.9.2015 passed by the coordinate Bench of the Tribunal in OA No.2434 of 2015 (*Arun Mishra vs. DDA (Delhi Development Authority) and others*).

5. *Per contra*, it has been submitted by Mr.Rajeev Kumar, learned counsel appearing for the respondents that there is no infirmity in the decision taken by respondent no.1-Directorate of Estates in rejecting applicant no.1's request. In support of his submission, Mr.Rajeev Kumar invited the attention of the Tribunal to paragraphs 2,3 and 6 of the OM dated 19.9.2014(ibid).

6. Paragraphs 2, 3 and 6 of the Government of India, Ministry of Urban Development, Directorate of Estates, O.M. No.12035/9/89-Pol.II(Vol.II), dated 19.9.2014, read thus:

- “2. The Officers of All India Services and Central Government officers and employees who are on deputation/mandatory posting/transfer to other Departments of the Government of India, which have Departmental Pools, Lok Sabha and Rajya Sabha Secretariats, Government of NCT of Delhi, DDA, various Municipal Corporations of Delhi and NDMC shall be eligible to apply for inter-pool exchange of accommodation.
3. Regularization of general pool residential accommodation in lieu of Departmental Pool accommodation and vice versa shall be made to the officers mentioned in para 2 above.

In view of the above provisions, I do not find any infirmity in the decision taken by respondent no.2-Directorate of Estates, vide letter dated 1.3.2016(Annexure A-1), in rejecting applicant no.1's request for inter-pool exchange of the Delhi Jal Board Pool's quarter No.2 (Old Constructed), Type V, Jal Vihar Colony, New Delhi, which was in occupation of her husband-applicant no.2. When respondent no.1-Directorate of Estate found that the case of applicant no.2 was not covered by the provisions contained in paragraphs 2 and 3 of the O.M. dated 19.9.2014(ibid) and, accordingly, rejected applicant no.1's request for inter-pool exchange, the question of consideration of request made by applicant no.2 for allotment of the said Delhi Jal Board Pool's quarter in favour of applicant no.1 by way of inter-

pool exchange did not arise, and in any case, respondent no.2-Delhi Jal Board has stated to have rejected applicant no.2's request for allotment of the said Delhi Jal Board Pool accommodation in favour of applicant no.1 by way of inter-pool exchange. In *Shanti Sports Club vs. Union of India*, (2009) 15SCC 705, it has been held that a noting recorded in the file is merely a noting simplicitor and nothing more. It merely represents expression of opinion by the particular individual. By no stretch of imagination, such noting can be treated as a decision of the Government. Even if the competent authority records its opinion in the file on the merits of the matter under consideration, the same cannot be termed as a decision of the Government unless it is sanctified and acted upon by issuing an order. The noting in the file or even a decision gets culminated into an order affecting right of the parties only when it is expressed in the name of the President or the Governor, as the case may be, and authenticated in the manner provided in Article 77(2) or Article 166(2) of the Constitution of India and is communicated to the affected persons. The notings and/or decisions recorded in the file do not confer any right or adversely affect the right of any person and the same can neither be challenged in a court nor made basis for seeking relief. Even if the competent authority records noting in the file, which indicates that some decision has been taken by the concerned authority, the same can always be reviewed by the same authority or reversed or overturned or overruled by higher functionary/authority in the Government. In the instant case, the notings in the departmental file, to

which the attention of the Tribunal has been drawn by Mr.Suresh Tripathy, were of clerks, supervising officer, and Director and Assistant Commissioner of respondent no.2-Delhi Jal Board. Applying the principle laid down by the Hon'ble Supreme Court in *Shanti Sports Club vs. Union of India* (supra), those notings cannot be construed to be the decision of the respondent no.1-Delhi Jal Board accepting the request of applicant no.2 for allotment of the Delhi Jal Board Pool accommodation, which was allotted to and occupied by applicant no.2, in favour of applicant no.1 by way of inter-pool exchange, nor can the same be said to have conferred any right on the applicants to claim allotment/regularization of the said Delhi Jal Board Pool accommodation in favour of applicant no.1. Furthermore, the allotment of Delhi Jal Board Pool accommodation occupied by applicant no.2 stood cancelled with effect from 1.6.2017. In the above view of the matter, I do not find any merit in the O.A.

7. The decision of the coordinate Bench of the Tribunal in *Arun Mishra vs. DDA (Delhi Development Authority) and others* (supra), being distinguishable on facts, does not come to the aid of the applicant.

8. Resultantly, the O.A. is dismissed. The interim orders passed by the Tribunal automatically stand vacated. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER