

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

**O.A.NO. 060/00808/2018      Date of order:- 27.7.2018.**

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**  
**Hon'ble Mrs.Ajanta Dayalan, Member (A).**

Dr. Raj Singh son of Sh. S.B.Singh, Registrar of Companies, Himachal Pradesh, posted at corporate Bhawan, Plot NO.4, Madhya Marg, Sector 27, Chandigarh, and resident of House No.15A, Central Government Officers Complex, Sector 38-A, Chandigarh.

.....Applicant.

( By Advocate :- Dr. Rajaansh Thukral)

Versus

Union of India through the Director of Estate, Ministry of Housing & Urban Affairs, Government of India, Nirman Bhawan, New Delhi-110 001.

...Respondent

( By Advocate : Shri Sanjay Goyal).

**O R D E R (Oral).**

**Sanjeev Kaushik, Member (J):**

Present OA has been filed by the applicant assailing the order dated 15.5.2018(Annexure A-1) whereby his representation dated 18.1.2018 ( Annexure A-2) for extending him the benefit of judgment dated 28.8.2014 passed by the Hon'ble Delhi High Court in L.P.A.No.64 of 2014 in the case of **Awadesh Kumar Prajapati** versus **Government of NCT of Delhi**, has been rejected.

2. On the last date of hearing, when the matter came up for preliminary hearing, this Court issued notice to respondent, which

was accepted by the Senior Central Government Standing Counsel, who sought a week's time to have instructions on the limited issue as to how the respondents can refuse to follow the dictum of law laid down by the Hon'ble Delhi High Court. For ready reference, order dated 13.7.2018 reads as under:-

1. "Heard.
2. Argues, inter-alia, that the view taken by the respondents in rejecting the claim of applicant for reservation in accommodation on the basis of Instructions dated 17.11.1997 relating to 5% discretionary quota on medical grounds to which applicant belongs, disregarding the benefits provided under the Rights of Persons with Disabilities Act, 2016 and the view taken by the Hon'ble Delhi High Court in the case of Awdhesh Kumar Prajapati Vs. Government of NCT of Delhi in LPA No. 64/2014 decided on 15.5.2018, on the ground that the decision is applicable between the parties only, is not legally sustainable in the eyes of law. He submits that once a point of law is settled by a court of law, a model employer like Union of India, cannot take a stand that since it was not a party to a particular decision, so it is not bound to follow the same as it would be apparently illegal and arbitrary.
3. Notice.
4. Mr. R.L. Gupta, Sr. Central Govt. Standing Counsel for Union of India accepts notice and seeks a week's time to have instructions on the limited issue as to how the respondents can refuse to follow a dictum of law laid down by Hon'ble Delhi High Court, only on the ground that it was not a party to that decision.
5. List on 27.7.2017.
6. Copy of this order be supplied to learned counsel for respondents."

Today, Mr. Sanjay Goyal, new counsel appeared replacing the earlier counsel and requests additional time to file reply.

3. Learned counsel for the applicant vehemently opposed his prayer and submitted that his limited prayer is to decide his representation afresh, wherein the applicant has relied upon a decision on the similar issue, which was decided in favour of the petitioner by the Hon'ble Delhi High Court. Learned counsel further

urged that even the impugned order cannot sustain on law as the respondents have not considered the ratio of the law laid down by the Hon'ble Delhi High Court in the case of Awadesh Kumar Prajapati (supra) and rejected his claim only on the ground that the Central Government was not a party therein nor any directions have been issued to them by the High Court.

4. Dr. Rajansh Thukral, learned counsel for the applicant made a statement at the Bar that the applicant will be satisfied if the matter is remitted back to the respondents to reconsider the case of the applicant in view of the law laid down by the Delhi High Court in the case of Awadesh Kumar Prajapati (supra).

5. Shri Sanjay Goyal, learned counsel for the respondents is not in a position to support the impugned order because while rejecting the claim of the applicant, the respondents have not considered the import of the judgment and has dismissed the representation in an arbitrary manner, which cannot be appreciated by a court of law.

6. In the wake of above noted facts, we have no hesitation in our mind in holding that the impugned order cannot sustain on two counts firstly that the same is non-speaking and secondly on the ground of non-application of mind because a perusal of the order makes it clear that the applicant has prayed that he be granted benefit of 4% reservation in allotment of government accommodation in pursuance of provisions of the Rights of the Persons with Disabilities ( Equal Opportunities, Protection of Rights & Full

Participation ) Act, 1995 and now known as The Rights of Persons with Disability Act, 2016 as has been interpreted by the Delhi High Court in the case of Awadesh Kumar Prajapati(supra) and if he is similarly placed like the petitioner therein, then the same benefit be extended to him also, otherwise a reasoned and speaking order be passed within a period of four weeks from the date of receipt of certified copy of this order. If the respondents feel appropriate, they can also provide an opportunity of hearing to the applicant before deciding his claim.

7. The OA stands disposed of with the above directions. No costs.

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**(AJANTA DAYALAN)**  
**MEMBER (A).**

Dated:- July 27, 2018.

Kks