

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

RA/310/00008/2018 in OA/310/00576/2018

Dated Monday the 30th day of July Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

&

HON'BLE MR. P. MADHAVAN, Member (J)

1. The Director of Estates,
Ministry of Urban Development,
Nirman Bhavan, New Delhi 110108.

2. The Assistant Estates Manager (Chennai),
First Floor, Shastri Bhavan,
26, Haddows Road,
Nungambakkam, Chennai 600006.

....Applicants/Respondents

By Advocate Mr. V. Chandrasekaran

Vs

George Mathan,
Judicial Member,
Income Tax Appellate Tribunal,
Chennai Benches, Chennai,
No. 71/1, CPWD Quarters, GPRA Campus,
Thirumangalam, Chennai 600040.Respondent/Applicant

By Advocate M/s. V. Vijayshankar

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. This RA has been filed against the order of this Tribunal dt. 15.05.2018 by which it was observed that the applicant in the OA had made out a prima facie case that he was the senior most claimant for Type 5 accommodation and keeping in view the assurance of the learned counsel for the respondents, the respondents were directed to consider the applicant's claim offline and pass necessary orders.

2. The RA has been filed on the following grounds:-

i. Order in the OA was passed by this Tribunal was disposed of at the admission stage itself without hearing the RA applicants and therefore, it was against the principles of natural justice.

ii. Rule 44 and Rule 45 of CGGRAR rules, 2017 require that a person allotted accommodation had to first accept it and then apply for a change. He could not ask for another type of accommodation without first accepting the accommodation offered.

3. Learned counsel for RA respondent (OA applicant) would submit that Rule 44 and 45 are not attracted in this case at all. Further, no prejudice had been caused to the respondents by not issuing an advance notice as the standing counsel who represented them was satisfied that in the facts and circumstances of the case, the OA

respondents would try their best to accommodate the claim of the applicant and the order was passed accordingly.

4. Learned counsel for RA applicant would submit that the RA had been filed essentially relying on Rule 44 and 45 of the CGGRAR rules and the Tribunal may pass an appropriate order in terms of the provisions contained therein.

5. We have gone through the rules carefully. Rule 44 (1) is about taking physical possession of accommodation initially allotted to a person who seeks a change to another same type of accommodation.

The rule is reproduced below:-

"44. Change in same type or entitled higher type of accommodation:-

(1) An allottee to whom an accommodation has been allotted under these rules may apply for a change to another same type of accommodation only after taking physical possession of accommodation allotted under initial allotment."

Rule 45 talks about change of accommodation on medical grounds.

The rule is reproduced below:-

"45. Change of accommodation on medical grounds:-

(1) Change on medical grounds shall be given only if the allottee concerned has already availed of one change in the same type of accommodation admissible under these rules:

Provided that if the allottee has not already availed one change, the application for change on medical grounds shall be referred to the Committee constituted for the purpose."

6. The applicant in the OA had neither sought a change in the same type of accommodation nor a higher type of accommodation but a lower type of accommodation than the one allotted to him. He was

allotted Type 5 whereas he had sought Type 4 (special) which clearly is a lower type of accommodation. Further, he never sought the lower type of accommodation on any medical grounds but only because of other personal reasons. We accordingly see no merit in RA as the rules quoted by the respondents are not seen applicable to the case of the OA applicant.

7. RA is misconceived and is accordingly dismissed.

(P. Madhavan)
Member(J)

(R.Ramanujam)
Member(A)

30.07.2018

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