

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI**

O.A. NO.2729 of 2017

This the 14th day of August 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Smt. Veena Poddar, StampVender, aged about 57 years,
11/379, Vasundhara,
Distt. Ghaziabad,
U.P. - 201012

....Applicant

(By Advocate : Ms. S.D. Windlesh)

VERSUS

1. Director General
Department of Posts,
Ministry of Communication and Information &
Technology
Dak Bhawan, New Delhi.
2. Chief Post Master General,
Delhi Circle,
Department of Posts,
Ministry of Communication and Information &
Technology
Meghdoot Bhawan, New Delhi-110001.

.....Respondents

(By Advocate : Shri Manish Kumar)

O R D E R (Oral)

By filing this OA, the applicant is seeking the following
reliefs:-

- “a) To quash Letter No. Bldg./7-
Regularization/Vin/2011 dated 14.07.2015 issued
by the respondent No.2 denying the allotment of
alternative/fresh Govt. accommodation to the
applicant on frivolous grounds,
- b) To direct the respondents to compensate the
applicant for foregoing the HRA since her date of
appointment as she shared the Govt.
accommodation with her husband knowing that

she will be allowed to retain the same accommodation after the retirement of her husband or she will be allotted fresh Govt. accommodation as per entitlement.

- c) To direct the respondents to pay a sum of Rs. 5 lakh on account of disturbances caused in her family due to uncertainty in allotment of govt. accommodation and unwilling retention of the govt. accommodation for addl. period of nine months at extra charges and borrowing of money on higher interest to construct their own house in Ghaziabad.
- d) To direct the respondents to pay interest @ 18% on the amount of HRA, compensation and damages payable to the applicant, and
- e) To pass such other orders as this Hon'ble Court may deem fit and just in the facts and circumstances of the case.”

2. Brief facts of the case are that the applicant joined the service with the respondents on 27.9.1989 as Packer and was sharing the Govt. accommodation allotted to her husband at C 201, Albert Square, Gole Market, New Delhi and did not claim HRA since then. It is contended by the applicant that as her husband was to retire on 31.7.2011, she applied for allotment of Govt. accommodation for the allotment year 2011-12 on 5.1.2011 but the respondents taking the shelter of provisions of SR-317-B-4(I) rejected her claim on the ground that her husband had not surrendered the Govt. accommodation allotted to him whereas Govt. accommodation was allotted to more than 53 junior officers out of them, more than 20 years juniors to the applicant. Therefore, on 2.5.2011, she applied for regularization of the Govt. accommodation allotted to her husband in her name from

General Pool by surrendering one postal pool accommodation to General Pool but the respondents did not accede to this request and resultantly Directorate of Estate had to cancel the same after the retirement of her husband. The applicant again applied for the Govt. accommodation for allotment year 2012-13 on 21.12.2011 for allotting lower type of accommodation for which the priority is to be counted from the date of induction in service as per SR 317-B-B-5 (2) Explanation (B) but the respondents did not consider the date of priority from the date of induction into service and changed the same by taking into account the Grade Pay.

2.1 Aggrieved the applicant preferred a representations dated 17.4.2012 and 21.8.2013 requesting the respondents to pay her the HRA from the date of her appointment. Finding no response thereto, she served a legal notice dated 23.5.2015 for the relief claim in this OA. The claim of the applicant raised in the legal notice was rejected, vide order dated 14.7.2015, stating that no discrimination was done to the applicant and hence, the legal notice was not found to be justified.

2.2 This is the order, which has been challenged by the applicant in this OA.

3. The respondents have filed their reply and opposed the claim of the applicant only on the sole ground that her

husband has not surrendered the Govt. accommodation allotted to him. Therefore, the applicant was neither allotted any accommodation nor the respondents regularized the Govt. accommodation allotted to her husband. They have further averred that the allegation of applicant qua allotment of quarter to her juniors is vague as no junior was allotted Govt. accommodation in preference to the applicant. However, other factual matrix of the case has not been disputed.

4. Heard learned counsel for the parties and carefully perused the pleadings available on record.

5. Counsel for the applicant submitted that the stand taken by the respondents that no juniors to the applicant have been allotted Govt. accommodation is falsified from the contents of para 1 of the brief facts of the counter affidavit they have admitted that as soon as the turn of the applicant was matured for allotment of Govt. accommodation, the available quarter was allotted to next senior most official, who was admittedly junior to the applicant on 29.9.2011 on the ground that as per rule 317-B-4(a) of SR, she was not eligible for allotment of Govt. accommodation, which is absolutely frivolous and is against the Rules as the applicant's case covers in terms of the provisions of SR 317 B 4(5) (a), but the respondents did not consider the same and rejected the claim of the applicant on flimsy ground.

5.1 Counsel for the applicant further submitted that the respondents were adamant not to allot the Govt. accommodation to the applicant or to regularize the one allotted to her husband. The said fact is amply clear from the fact that they have not even bothered to take into account the rule position relating to date of priority date of allotment which is the date of induction in service whereas they have changed the determination of priority for allotment of Govt. accommodation from seniority to Grade Pay so that the applicant may not get allotted Govt. accommodation. Had the respondents taken into account the rule position in true spirit by treating the priority date to be the date of induction in service, the applicant would have allotted the Govt. accommodation in preference to her juniors in the allotment year of 2012-13.

6. On the other hand, counsel for the respondents reiterated the stand taken by the respondents in their counter affidavit.

7. So far as the claim for the compensation and refund of HRA is concerned, the same is misconceived and is rejected out-rightly as HRA is given to all entitled as per rules. Every employee entitled for the same is given the same.

8. Now the sole issue to be decided in this case is whether the applicant was eligible as per rule for allotment of Govt.

accommodation and/or she was entitled to get the Govt. accommodation allotted to her husband regularized.

9. For proper appreciation of the issue involved in this case, this Tribunal deems it fit to reproduce the impugned order dated 14.7.2015 whereby the request of the applicant was rejected, which reads as under:-

“In response to your above mentioned Notice, it is intimated that Shri U.K. Poddar, husband of Smt. Veena Poddar, the applicant was occupant of Type-II General Pool accommodation, C-201, Albert Square, Gole Market, New Delhi allotted by Directorate of Estate, Nirman Bhawan, New Delhi & the applicant Smt. Veena Poddar was residing with her husband in Govt. accommodation, but no intimation was given to this office about sharing of said quarter as per records. Prior to retirement of her husband on 31-7-2011, Smt. Veena Poddar, employee of this Department, requested this office to forward her application to Directorate of Estate for regularization of the above said quarter in her name. Accordingly, her application for regularization of aforesaid quarter, was forwarded to Asstt. Director (Estate), TCB Section, Nirman Bhawan, New Delhi vide this Office letter dated 28-6-2011, as the quarter in question was belonging to General Pool. Further she requested this office on 15-09-2011 to forward DE-2 form to Directorate of Estate along with a certificate showing her eligibility for Type-II quarter. Keeping in view her request, the same was forwarded to Director (Estate) on 20-9-2011. Later on, Directorate of Estate, Nirman Bhawan turned down her request for regularization of quarter on 11-11-2011 and this office has no rule for regularization or alternate allotment of accommodation allotted by Directorate of Estates.

2. It is further intimated that Smt. Veena Poddar was eligible for consideration for allotment of Postal Pool Quarter during 2011-12 and 2012-13, in accordance with Rule SR 317-B-5 and SR 317-B-6. Accordingly her name was entered in the priority register. During 2011-12, although her turn for allotment matured, yet she was not considered for allotment of Postal Pool Quarter in the light of SR-317-B-4(I), which states that “No officer shall be allotted a residence under these rules, if

the wife or husband, as the case may be, of the officer, has already been allotted a residence unless such residence is surrendered". Smt. Veena Poddar was residing in Govt. accommodation allotted to her husband which was not surrendered during 2011-12 and as such she was not entitled for allotment of Govt. quarter as per the rules. As a consequence, juniors to Smt. Veena Poddar in priority list 2011-12 were allotted Postal Pool Quarters. During 2012-13, Smt. Veena Poddar applied for Delhi Postal Pool accommodation and opted specifically for Ground or first floor in Gole Market (P&T Colony Kali Bari Exists there). She was eligible for consideration of Govt. accommodation in accordance with the rules but could not be allotted accommodation in Kali Bari P & T colony due to non-availability of vacant quarter in that area. Even 10 officials ranking senior to her in priority list and recruited during the year September 1980 to August 1989, could not be allotted Govt. accommodation at Kali Bari, P & T Colony, for want of vacant quarter in that colony. So far as quarter/claim of alternate Govt. accommodation under GOI order no.1 below SR-317-B-26, is concerned, it is intimated that her husband was allotted accommodation from Dte. Of Estates Pool and this office has no role for regularization or alternate allotment of accommodation allotted by Directorate of Estates. The contention of Smt. Veena Poddar about retaining the govt. accommodation at C/201, Albert Square, Gole Mkt, New Delhi after retirement upto 30th April 2012 on payment of damages/market value, is contradictory to the facts mentioned in grievance petition dated 21-08-2013, according to which the quarter in question was retained on medical grounds upto 31-03-2012 as per prescribed license fee.

3. In view of the above, it is stated that no discrimination was done to Smt. Veena Poddar, employee of this Department at all. Therefore, compensation & notice charges as claimed is not justified, hence, denied."

10. From the plain reading of the aforesaid order, it is evidently clear that admittedly, the applicant was eligible for consideration for allotment of Postal Pool Quarter during 2011-12 and 2012-13, in accordance with Rule SR 317-B-5

and SR 317-B-6 and accordingly her name was entered in the priority register by the respondents themselves. They have further admitted that during the allotment year 2011-12, her turn for allotment matured, but she was not allotted Govt. accommodation on the ground that as per SR-317-B-4(I), the Govt. quarter allotted to her husband was not surrendered which act of the respondents is against the SR-317-B-(5)(a) which clearly provides as under:-

“(5) Notwithstanding anything contained in sub-rules (1) to (4),-

(a) If a wife or a husband, as the case may be, who is an allottee of a residence under these rules, is subsequently allotted a residential accommodation at the same station from a pool to which these rules do not apply, she or he, as the case may be, **shall surrender any one of the residences within one month of such allotment;**”

(emphasis added)

11. The above quoted rule clearly provides that the Govt. accommodation allotted to either of the spouse can only be surrendered after the subsequent allotment and not before allotment of subsequent allotment, which is the case of the respondents and the same has no legs to stand.

12. It is also to be noted that the respondents have themselves admitted that they had allotted Govt. accommodations to certain juniors of the applicant ignoring her claim. The respondents have erred in treating the

determination of eligibility criteria by adopting the Grade Pay instead of the date of induction in service.

13. In view of above discussion, the impugned order is quashed. The applicant is directed to give her preference for allotment of the entitled accommodation within 15 days and the respondents are directed to allot a Govt. accommodation to the applicant of her entitled type as per her preferences within a period of 30 days thereafter or as soon as the same become available. The respondents are also directed to pay a sum of Rs.5000/- (Rupees Five Thousand only) to the applicant for unnecessarily dragging her to a litigation.

14. In the result, the OA is allowed in above terms.

**(Nita Chowdhury)
Member (A)**

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