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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 270/2003

New Delhi the 2nd day of September, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

Shri Raj Kumar
R.No. 524, 0/0 the Economic
Advisor, Ministry of Commerce and
Industry, Udyog Bhawan, New Delhi.

...Applicant

(By Advocate Shri Rajender Pathak)

VERSUS

Director, Directorate of Estate,
Ministry of Urban Affairs and
Employment, Nirman Bhawan, New Delhi.

..Respondent

(By Advocate Shri R.N.Singh)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman, (J)

In this application, the applicant has impugned the illegality of the order dated 30.7.2002 issued by the respondent i.e., Directorate of Estates, Ministry of Urban Affairs and Poverty Alivation, Nirman Bhawan, New Delhi (Annexure A.1). He seeks an order in the nature of mandamus to direct the respondent to allot him the entitled Type-III residential accommodation under the quota ear-marked for the physically handicapped persons as per the policy of the Government (Annexure A-2).

2. One main preliminary objection taken by the respondents in the OA is that the Tribunal has no jurisdiction regarding allotment of Govt. accommodation as this is not a service condition or service matter within the provisions of Section 3 (q) of the Administrative Tribunals Act, 1985. They have relied on the judgement of

18

the Hon'ble Delhi High Court in **Smt. Babli and Anr. Vs. Govt. of NCT of Delhi and Ors.** (95 (2002) Delhi Law Times 144 (DB)). In this case, the Hon'ble High Court has held that this Tribunal has no jurisdiction to entertain the OAs claiming allotment or regularisation of allotment of accommodation unless such a claim is shown to be ~~the~~ ^{an} condition of service. They have also referred to the judgement of the Hon'ble Supreme Court in **UOI Vs. Rasila Ram and Ors.** (JT (2000) SC 503). The judgement of the Delhi High Court has been followed in a number of decisions of the Tribunal (Division Bench and Single Bench), including in the case of **Khantwal and Anr. Vs. UOI and Ors.** (OA 2086/2002) decided on 17.3.2003, copies placed on record as well as the other cases mentioned in Para 1 of the counter reply. They have also taken an objection that the OA is barred by limitation, delay and laches as the impugned order is dated 30.7.2002, whereas the OA has been filed on 28.1.2003.

3. As the question of issue of allotment has been raised in the present application, it is considered appropriate to deal with this matter ~~in~~ ^{at} the first instance.


4. Taking into account the facts and circumstances of the case, as given in the OA and the reliefs sought for by the applicant, namely, for allotment of residential Type-III accommodation immediately to him, I find that the aforesaid judgements of the Delhi High Court as well as those of the Tribunal referred to above and relied upon by

13

12

the respondents are applicable to the facts in this case. In this view of the matter, as the OA is not maintainable in this forum, as the Tribunal has no jurisdiction to give any such directions as prayed for by the applicant, it is not considered necessary to deal with the other issues raised by the respondents, including ^{other v's} preliminary objections and/or merits of the case.

5. In the result, for the reasons given above, the OA is dismissed on the ground of lack of jurisdiction of the Tribunal to deal with the issues raised in this OA. In this view of the matter, Registry is directed to return the documents to the applicant, retaining one set of documents for record purposes to enable him to proceed in the matter, as advised in accordance with law. No costs.


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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