

(M)

Central Administrative Tribunal
Principal Bench

O.A.No.508/2003

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 23rd day of April, 2003

Shri Prem Singh Rawat
s/o Shri Dayal Singh Rawat
working as Head Constable
D.G's Security Guard
Directorate General Border Security
CGO Complex, Lodi Road
New Delhi and
residing at Qr. No.1398, Sector-VII
M.B.Road, Push Vihar
New Delhi. ... Applicant

(By Advocate: None)

Vs.

1. Union of India through the
Director of Estates
Directorate of Estates
Nirman Bhawan
New Delhi.
2. The Inspector General (Administration)
Special Protection Group
(Cabinet Secretariat)
1, Safdarjung Lane, New Delhi - 11... Respondents

(By Advocate: Shri R.N.Singh for R-1
Shri Balwant Sharma, proxy of
Shri B.K.Aggarwal, for R-2.)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

Despite second call, none appears for the applicant, I proceed to dispose of the OA under Rule 15 of the CAT (Procedure) Rules, 1987.

2. Applicant, through this OA, seeks regularisation of allotment of Government accommodation or in the alternative alternate accommodation.

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3. Applicant, who was in occupation of Government residence at Pushpa Vihar, having been allotted vide letter dated 2.6.1998, while working in Special Protection Group, Cabinet Secretariat. A larger number of official accommodations belonging to general pool controlled by the Directorate of Estate were placed at the disposal of the Special Protection Group during the period from 1985 to 1989. It is stated that the quarter in question was not an essential service quarter allotted to the applicant in his own turn, on the basis of joining SPG in 1992 and allotted in 1998. As the applicant was repatriated to Border Security Force on 30.4.2000 and posted at Kashmir, he was eligible to retain the present Government accommodation. On the basis of inter departmental correspondence between SPG and the Directorate of Estates it revealed that applicant is to be allowed to retain the same accommodation or to allot another accommodation. Being aggrieved the aforesaid eviction and as no proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971, have been initiated. Applicant cited, few examples of similarly circumstance of officers who have been allotted to retain the accommodation.

4. Notices have been issued to the respondents at the question of jurisdiction. ^{to} No short reply has been filed. Today Shri R.N.Singh representing on behalf of respondents brought before me a decision in OA 2086/2002, Ashok Kumar & Others v. Union of India & Others, decided on 17.3.2003 where on the basis of a decision of High Court of Delhi in Smt. Babli and Another v. Govt. of NCT of Delhi & Others,

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95 (2002) DLT 144(DB) as well as decision of this Tribunal, by Division Bench, in OA 2088/2002 decided on 26.2.2003 in Madan Mohan Khantwal & Anr. v. Union of India, a similar claim has been rejected, it is contended that the aforesaid decision, in all fours, covers the case of applicant and this Court has no jurisdiction to entertain the grievance of applicant.

5. I have carefully considered the pleadings. As the prayer of the applicant is for regularisation of quarter from general pool, with alternative prayer of allotment of alternate accommodation, I find that the following observations have been made by the Division Bench in OA 336/2001, decided on 27.2.2003 in Prabhat Srivastava & Anr. v. Union of India & Another:

"11. Then the learned counsel for the respondents has also referred to a recent judgment reported in 95 (2002) Delhi Law Times 144 (DB) of the Hon'ble Delhi High Court in the case of Smt. Babli and Another Vs. Government of NCT of Delhi and Others, wherein the Hon'ble High Court of Delhi has observed as under:-

" 10. We, accordingly, hold that CAT had no jurisdiction to entertain OAs claiming allotment or regularisation of Government accommodation unless such claim was shown to be a condition of service. Nor could it assume jurisdiction where eviction action was taken against an employee for his alleged unauthorised occupation of the premises under the Eviction Act. These petitions are accordingly dismissed and Tribunal order affirmed".

12. When confronted with the situation the learned counsel for the applicant admitted that there are no rules or the service condition which may make the applicant eligible for ad hoc allotment of accommodation by way of exchange of pool. The applicant has relied only on past precedents whereby the Estate Officer has given ad hoc allotment. But in our view that does not create any right in favour of applicant as it is not part of any service condition. Thus applicant cannot claim regularisation of quarter. In view of the law laid down by the Delhi High Court in Smt. Babli (Supra), the OA has to be dismissed."

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6. In my considered view there is no divergent opinions in the two cases cited before me. In latter case of Prabha Srivastava in view of the decision of the High Court in Babli's case (supra) OA has been dismissed. As decision of the Division Bench is binding on me, where it has been held that this court has no jurisdiction and the grievance of the applicant does not come within the purview of service matter, I respectfully follow the same and accordingly dismiss the OA for want of jurisdiction. However, this shall not preclude applicant from raising his grievance in an appropriate forum in accordance with law.

7. Having regard to the aforesaid decision, to which I respectfully agree, this Court has no jurisdiction to dealt with the grievance of applicant. Accordingly, the OA dismissed for want of jurisdiction. However, this shall not preclude his grievance ~~being raised in an~~^h appropriate forum in accordance with law. No costs.

S. Raju

(Shanker Raju)
Member(J)

/rao/