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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.193/2003

This the 26th day of September, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Ms. Saroj Pant D/O Shri U.R.Pant.
R/O C-24 Kidwai Nagar (East).
New Delhi.
2. U.R.Pant S/O late B.D.Pant.
R/O C-24 Kidwai Nagar (East).
New Delhi.

... Applicants

(By Shri Harvir Singh, Advocate)

-versus-

1. Secretary, Ministry of
Urban Development, Nirman Bhawan.
New Delhi.
2. Director of Estates.
Nirman Bhawan, New Delhi.
3. Medical Superintendent,
Safdarjung Hospital.
New Delhi-110016.
4. Secretary Health,
GNCT Delhi, Delhi Sachivalaya.
I.P.Estate, New Delhi.
5. M.S., Lok Nayak Hospital.
GNCT, Delhi.

... Respondents

(By Shri R.N.Singh, Advocate for Respondents 1 & 2 and
Ms. Renu George, Advocate for Respondents 3 to 5)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant No.1 has challenged Annexure A-1 dated 28.6.2002 issued by Directorate of Estates cancelling allotment of Type-B quarter No.C-24, Kidwai Nagar, New Delhi w.e.f. 1.10.2002 after taking into consideration the concessional period permissible on retirement of the allottee under the rules. He has also challenged

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Annexure A-2 dated 24.10.2002 whereby her request for regularisation of accommodation in possession of her father, applicant No.2, has been rejected by respondents.

2. Applicant No.2, Shri U.R.Pant, retired from Government service on 31.5.2002. During his service he had been allotted Government accommodation, i.e., Type-B quarter No.C-24 Kidwai Nagar, New Delhi. While that allotment was cancelled w.e.f. 1.10.2002 after allowing four months' concessional period admissible under the rules, applicant No.1 Ms. Saroj Pant daughter of applicant No.2, who is a Staff Nurse in the Lok Nayak Hospital, had requested for regularisation of the same Government accommodation in her name. Her request was rejected.

3. Respondents have taken the objection that allotment of Government accommodation is not a service condition and as such claim of applicants does not fall under the jurisdiction of this Tribunal and, therefore, the OA is not maintainable.

4. We have heard the learned counsel of both sides on this preliminary issue whether or not this Tribunal has jurisdiction to deal with this matter.

5. The learned counsel of applicant has referred to the following in support of his contention that this Court does have jurisdiction in such a matter :

(1) order dated 1.5.2002 in OA No.2804/2001 (CAT, Principal Bench) : Shanti Prasad Pant & Anr. v. Union of India & Anr.;

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(2) order dated 21.5.2002 in OA No.1859/2001 (CAT. Principal Bench) -: **Milap Chand v. Union of India & Anr.**:

(3) order dated 7.6.2002 in OA No.1541/2001 and OA No.1542/2001 (CAT. Principal Bench) -: **Dr. J.S. Martolia and Dr. B.N. Mishra v. Government of N.C.T. of Delhi & Ors.**; and

(4) **State of Maharashtra & Ors. v. Abdul Javed Abdul Majid & Ors.**, JT 2002 (Suppl.1) SC 151.

In the case of **Shanti Prasad Pant** (supra) the Single Bench of this Tribunal partly allowed the OA though not directing regularisation of residential accommodation originally allotted to the father, in the name of the son on the retirement of the father, directed the respondents to provide alternate accommodation of the type he was entitled to. In the case of **Milap Chand** (supra) the respondents had cancelled allotment of the applicant not on account of expiry of the allotment but on a suspicion that the premises had been sub let, an allegation which had not been exclusively proved. The cancellation of the allotment was quashed and set aside stating that the orders passed by respondents were violative of the principles of natural justice. However, the respondents were not restrained from taking action if the applicant was found guilty of sub letting the accommodation after fulfilling all procedural requirements in terms of law, rules and instructions. So far as the case of **Dr. J.S. Martolia** (supra) etc. is concerned, as proceedings had been initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the PP Act), it was held that the matter was not amenable to the jurisdiction of this Court and the OAs were dismissed for want of jurisdiction.

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6. In view of existence of divergent decisions of the Tribunal, the learned counsel contended that the matter could be referred to a larger Bench. In this connection, he relied on **Abdul Javed Abdul Majid (supra)** in which it was held that a Division Bench of a High Court should not disturb the earlier decision passed by a coordinate Bench of the same High Court and the matter should have been directed to be placed before the Chief Justice for passing appropriate orders. The learned counsel pointed out that in the present matter no proceedings have been initiated by the Directorate of Estates under the provisions of the PP Act and as such, the accommodation allotted in the name of applicant No.2 should not have been cancelled and it should have been regularised in the name of applicant No.1.

7. On the other hand, the learned counsel of respondents has relied upon the following decision of courts :

- (1) **Smt. Babli & Anr. v. Govt. of NCT of Delhi & Ors..** 95 (2002) Delhi Law Times 144 (DB); and
- (2) order dated 26.2.2003 in OA No.2088/2002 (CAT, Principal Bench) : **Madan Mohan Khantwal & Anr. v. Union of India & Ors.**

In the case of **Smt. Babli (supra)** the High Court of Delhi considering the decision of the Supreme Court in the case of **Union of India v. Rasila Ram & Ors.. JT 2000 (10) SC 503.**, held that CAT has 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 has been taken against an employee for his alleged unauthorised occupation of the premises under the PP Act. In the case of **Madan Mohan Khantwal** (supra), a Division Bench of this Court dealt with an identical case as the present extensively which relied on the ratio deci dendi in the case of **Smt. Babli** (supra) and concluded that this Tribunal does not have the jurisdiction to deal with the matter.

8. Although there is no denying the fact that in case the coordinate Benches are differing with each other, the matter has to be referred for decision by a larger Bench, however, in the present case while applicant had relied on decisions made by Single Benches of this Tribunal, we cannot bypass the decision of the Delhi High Court in the case of **Smt Babli** (supra) which has been followed by a Division Bench of this Tribunal in the case of **Madan Mohan Khantwal** (supra). In this backdrop, the Tribunal certainly does not have the jurisdiction to deal with the matter.

9. Resultantly, this application being without merit must fail and is dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V. K. Majotra)
Member (A)

/as/