

% 06.10.2010



Present:- Mr. V.K. Mishra for the petitioner.
Mr. A.S. Singh with Ms. Sangita Rai for respondents No. 1 and 2.
Mr. M.M. Sudan for the respondent No. 3.

+ CM No. 12647/2010 and W.P. (C) No. 4023/2007

*

By this application filed under Section 151 CPC the petitioner seeks appropriate directions to direct the respondents to allot suitable accommodation to the petitioner as per his entitlement.

Mr. V.K. Mishra, counsel appearing for the petitioner submits that the petitioner is entitled for Type IV accommodation as per his entitlement w.e.f. 1.9.1995, but the accommodation, which has been allotted by the respondent BSNL in favour of the petitioner is type III accommodation. Counsel further submits that the criteria of allotment of various types of accommodations is the basic pay of the employee and so far the basic pay of the petitioner is concerned the same is Rs. 12,000/- and, therefore, he is entitled to type IV accommodation. Counsel also submits that the accommodation, which is presently in occupation of the petitioner is D-48, Press Lane, New Delhi and where

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

now the petitioner has been residing for the last several years and children of the petitioner are studying in the nearby College/School. 23
Contention of counsel for the petitioner is that the petitioner has deliberately been allotted type III accommodation that too at a far of place and, therefore, the acceptance of type III accommodation would mean that the petitioner and his family would be totally dislodged from the said vicinity and the same would cause great inconvenience to his entire family.

Opposing the present application, counsel for respondent No. 3 submits that pursuant to the directions given by this Court the petitioner has been offered accommodation i.e. Quarter No. C-97, Type III, Vivek Vihar, Jhilmil, Delhi. Counsel also submits that the said accommodation has been offered as per the entitlement of the petitioner in terms of the policy dated 29th July, 2010. Mr. A.S. Singh, counsel appearing for the Estate Officer states that the petitioner had never made any request for the allotment of accommodation of type III and type IV since 1993 and it is only pursuant to the directions given by this Court, the petitioner had submitted his application for the grant of the accommodation.

I have heard learned counsel for the parties.

Vide orders dated 29th July, 2010 directions were given to the respondent BSNL to allot accommodation to the petitioner as per his entitlement from the BSNL pool within a period of two weeks from the date of the submission of the application by the petitioner. The said direction was made by this Court on the proposal given by Mr. M.M. Sudan, counsel representing BSNL, that the request of the petitioner can be considered for allotment of accommodation as per his entitlement. Now a fresh controversy has arisen between the parties with regard to the issue of entitlement of the petitioner. Contention of counsel for the petitioner is that the accommodation being offered by the respondent BSNL is not as per his entitlement as the same being type III accommodation, while the contention of Mr. Sudan is that the said accommodation has been offered to the petitioner as per his entitlement in terms of the policy dated 29th July, 2010. Certainly this issue is not before this Court. In the given circumstances, liberty can be given to the petitioner to challenge the said decision of the respondent BSNL by filing an independent writ petition, if the petitioner wishes to do so. In the interest of justice, however, the petitioner shall not be dispossessed from the existing quarter by respondents No. 1 and 2 for a period of three months from the date of

this order so that the petitioner is able to seek his appropriate legal remedy against the said decision of the BSNL.

25

With the above directions the application and the present petition are disposed of.



October 06, 2010

rkr

KAILASH GAMBHIR, J