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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment Dated: 20th September, 2016.**

+ W.P.(C) 8316/2016 and C.M.No.34473/2016 (stay)
VIJAY CHOWDHARY

..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr.Arun Bhardwaj, CGSC with
Mr.Sriram and Mr.Mimansak
Bhardwaj, Advocates.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 26th August, 2016 passed by the Central Administrative Tribunal (hereinafter referred to as the Tribunal) whereby an O.A. filed by the petitioner stands dismissed.
2. Brief facts relevant for deciding the petition are that the father of the petitioner was occupying a government accommodation being quarter No.79, Type-II, North-West Moti Bagh, New Delhi. He retired from service on 31st January, 2015. Post retirement, the father of the petitioner did not vacate the said government accommodation. As per the rules, the father of the petitioner was entitled to occupy the said quarter for a maximum period of eight months after retirement i.e. upto the end of September, 2015.
3. The Directorate of Estates has, in the meanwhile, issued a notice to

the father of the petitioner for vacation of the quarter under the P.P. Act. The petitioner approached the Tribunal by filing an O.A. No.1354/2016 on the ground that he has been appointed as an Auditor in the Defence Ministry and has joined his duty on 31st December, 2015. Petitioner prayed therein that he may be allowed to retain the same government accommodation based on his having joined the Defence Ministry and the fact that he is also entitled to a government quarter.

4. While it is not in dispute that the petitioner did not join his service with the Defence Ministry within the stipulated period of eight months after the retirement of his father, but the Tribunal dismissed the O.A. on the ground that the proceedings under the P.P. Act are pending. This has led to filing of the present writ petition.

5. Mr.Arun Bhardwaj, learned counsel for the respondents enters appearance on advance copy.

6. Heard.

7. We may note that the proceedings under the P.P. Act have been initiated against the father of the petitioner. Thus, in case the father of the petitioner had approached the Tribunal, in our view, the Tribunal would have had no jurisdiction to entertain the O.A. However, the son of the occupant (petitioner herein) has approached the Tribunal claiming his independent right to the quarter in question.

8. We may note that the Tribunal has observed in the impugned order that the petitioner has been appointed as an Auditor and joined his duty only after the expiry of period of eight months, but none of the submissions of the petitioner have been recorded in the said order and the O.A. has been dismissed only on the ground that proceedings under the P.P. Act have been

initiated against the father of the petitioner.

9. While we do not wish to make any observations on the merits of the matter with regard to the entitlement of the petitioner to retain or occupy the government quarter which was allotted to his father, but in our view the Tribunal erred in dismissing the O.A. on the ground that the proceedings under the P.P. Act are pending against the father of the petitioner.

10. We, accordingly, set aside the impugned order of the Tribunal and remand the matter back to the Tribunal for fresh hearing of the O.A.

11. We make it clear that the pendency of the O.A. before the Tribunal will not come in the way of the proceedings which are pending under the P.P. Act being independent proceedings under the P.P. Act. The Tribunal would decide the matter unaffected by any observations made by us while disposing of this writ petition. The parties shall appear before the Tribunal on 30th September, 2016.

12. The writ petition is accordingly allowed and disposed of in the above terms.

G.S.SISTANI
(JUDGE)

I.S.MEHTA
(JUDGE)

SEPTEMBER 20, 2016
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