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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9485/2015 & C.M. 32271/2015

I.C. SUDHIR

..... Petitioner

Through: Mr. Shyam Moorjani &
Mr. Sanjeev Kumar, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sanjay Jain, Additional
Solicitor General with
Mr. P.C.Yadav, Advocate for
respondent No.1 & 2
Mr. Rajiv Sharma & Mr. Kartik
Jindal, Advocates for respondent
No.3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

06.01.2016

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Petitioner is a Judicial Member of Income Tax Tribunal, who is aggrieved by allotment of General Pool accommodation i.e. 8 Tilak Marg, New Delhi under the *Chairman Pool* by the Directorate of Estates to respondent No.3, who is a Judicial Member of *Customs Excise and Service Tax Appellate Tribunal* (hereinafter referred to as the *CESTAT*). According to petitioner, he made an online application on 23rd December, 2014 seeking allotment of Government accommodation, which was duly

forwarded by the office on 29th December, 2014.

At the hearing, learned counsel for petitioner had submitted that in the Waiting List, petitioner was at Serial No.13 and third respondent was at serial No.35 but shockingly accommodation in question was allotted to respondent No.3 and not to petitioner. In this regard, petitioner had made a Representation of 13th January, 2015 (*Annexure P-4*) which was replied by the second respondent. As per reply of 28th January, 2015 (*Annexure P-10*), respondent no.3 had correctly applied under the Chairman Pool whereas petitioner had applied under the General Pool and so, accommodation in question was allotted to respondent No.3.

During the course of hearing, learned counsel for petitioner had drawn attention of this Court to information of 28th May, 2015 (*Annexure P-10*) received under *The Right to Information Act, 2005*, to point out that the unified Waiting List was corrected on 27th December, 2014 and the pool of respondent No.3 was corrected from General Pool to Chairman Pool and since petitioner's DE-2 Form was received in the Directorate of Estates thereafter, so his pool could not be corrected.

Upon hearing and on perusal of the impugned allotment, respondent's reply (*Annexure P-10*) and the material on record, I find that petitioner as well as third respondent had applied under the General Pool. If any random correction is to be undertaken by the Directorate of Estates, then it has to be uniformly done i.e. at the end of the month and not whenever they choose to do so. It is being so said because this gives rise to the allegations of arbitrariness, favoritism etc. and it is hard to explain as to why the random check was done on 27th December, 2014 and why not on the last day of the month. Since respondent- *Directorate*

of Estates had randomly corrected the General Pool Accommodation of respondent No.3 to Chairman Pool, therefore, allotment of accommodation in question to respondent No.3 is rendered suspect and unsustainable. Consequent upon quashing of the impugned allotment, it is directed that the accommodation in question be now allotted to petitioner, who was infact eligible to the allotment in question. However, not much is required to be said on this aspect for the reason that during pendency of this petition, third respondent now stands transferred to Chandigarh.

Learned counsel for third respondent submits that third respondent has undergone surgery of hernia on 26th December, 2015 and after his discharge from hospital on 30th December, 2015, he has been advised bed rest for four weeks. It is also pointed out that a *CESTAT* Bench has been created for the first time in Chandigarh, where third respondent has been now posted and no Government accommodation under the Chairman Pool has been made available and so, third respondent be directed to ensure that within a reasonable time, Government accommodation under the Chairman Pool is provided to third respondent at Chandigarh.

This is an aspect which is required to be taken care of by the concerned authorities. It is expected that the concerned authorities would ensure that third respondent is promptly provided a Government accommodation as per eligibility of third respondent.

With aforesaid observations, this petition is disposed of with direction to the respondent- Directorate of Estates to allot the accommodation in question to petitioner within a period of two weeks and respondent No.3 shall vacate the accommodation in question on or

before 29th February, 2016.

With aforesaid observations, this petition and application are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

JANUARY 06, 2016

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