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

+ **W.P.(C) 2512/2017**

SAGAR

..... Petitioner

Through: Mr. Siddhanth Tripathi, Advocate

versus

THE NDMC

..... Respondent

Through: Mr. Anil Grover, Standing Counsel,
Ms. Kanika Singh, ASC, Mr. J.K.
Tripathi, ASC with Mr. Rishi Vohra,
Advocate

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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22.03.2017

Sagar, in this writ petition, impugns the order dated 27.2.2017 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi ('Tribunal'), whereby OA No.2726/2016 filed by him has been dismissed.

2. This is the second round of litigation, as the earlier order of the Tribunal, dismissing the said OA vide order dated 23.8.2016, was set aside by this Court vide judgment dated 6.9.2016 in the lead case titled Suresh v. NDMC in WP(C) No.7870/2016. This order had directed the Tribunal to examine the question of discrimination.

3. The petitioner herein is a regular muster roll employee, who was appointed on compassionate grounds. The petitioner's father, a retired

employee of NDMC, during the course of employment, was allotted quarter No.205, Valmiki Sadan, Mandir Marg, New Delhi. The petitioner's father had retired on 31.3.2014. As he did not vacate the said quarter, proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 were initiated. Eviction Order dated 16.5.2016 has been passed. The petitioner's father has filed an appeal, which is pending. Interim stay was granted, but due to non-compliance of the directions to deposit the specified amount, the interim stay order has been vacated.

4. As per the learned counsel for respondent/NDMC, who appears on advance notice, the father of the petitioner is liable to pay Rs.2,61,337/- as damages.

5. The petitioner claims regularisation of allotment of the aforesaid quarter.

6. As per the respondent, the petitioner, being a regular muster roll employee, is not entitled to regularisation of allotment or allotment in his name. Other regular employees are waiting for allotment of official accommodation.

7. The petitioner's contention alleging discrimination was examined by the Tribunal with reference to the two cases of Angoori Devi and Sunita.

The Tribunal observed the quarter in occupation of Angoori Devi was regularised in special circumstances, as her husband was found to be missing and one of her sons had died for want of proper medical treatment on account of financial penury. Her daughter was a widow. Angoori Devi has also vacated the quarter. Sunita is a Safai Karamchari, whose services have been regularised with effect from 1.2.2014. She has a handicapped son, who is paralysed. One of his legs has been amputated. Most of the earnings of Sunita were spent on the treatment of her son. There are exceptional cases, which cannot be equated with the case of the petitioner, who seek allotment as his retired father was the allottee of the staff quarter. Extraordinary and extenuating circumstances are not asseverated and established.

8. Learned counsel for the petitioner relies on the Office Order dated 9.8.2004, issued in the case of one Gulal. Learned counsel for the respondent states that this Office Order was not filed and is not an annexure to the OA. She has referred to the index of the OA, which makes reference to copy of the Office Orders dated 17.3.2006 and 23.12.2014 relating to Angoori Devi and Sunita. This appears to be correct, as there is no discussion in the impugned order with reference to allotment made to Gulal.

The Office Order in the case of Gulal is dated 9.8.2004.

9. During the course of hearing, learned counsel for the petitioner had handed over to us a copy of the Policy for regularisation of staff quarters downloaded from the website www.ndmc.gov.in. This Office Order has name of existing wards of ex-allottees etc. As per the said Policy, employees, who are regular muster roll employees and have got employment on regular basis, are also entitled to regularisation of staff quarters held by their parents, who have retired or expired. This list specifically mentions the name of Gulal, s/o Arjun. Thus Gulal was a regular employee.

10. The petitioner herein is a regular muster roll employee, who has not been regularised thereafter. The petitioner, therefore, is not covered by the Regularisation Policy. This is also clear from Note (ii) attached with the said Policy, which states that the license fee for the intervening period of delay in case of employees who were on regular muster roll and are regularised thereafter, may be charged 6 times the license fee.

11. Learned counsel for the petitioner has drawn our attention to the decision dated 7.10.2005 in *Soban Singh & Ors. v. NDMC & Ors.* in WP(C) No.5168/2012 and other matters. This judgment decides the challenge to the policy adopted by the NDMC of offering and/or affecting regularisation to

Group 'C' regular muster roll employees, restricted only to Group 'D'. The issue involved in the said case was, therefore, entirely different. The said decision draws a distinction between the temporary muster roll employees and regular muster roll employees. This is not relevant.

12. Learned counsel for the petitioner has submitted that there are number of other cases which the petitioner may not be aware, wherein muster roll employees have been given benefit of regularisation of quarters. The policy decision is binding on the respondent. In case there is violation of the said policy decision, the respondent by a court decision would be directed to comply and not disobey and discard the policy. Negative equality cannot be pleaded or claimed.

13. Official quarters are scarce and a number of employees appointed earlier are waiting for their allotment. The case of the petitioner is not covered by the said policy decision for regularisation of staff quarters. The policy has not been challenged. He should not be permitted and allowed to stay in the staff quarter, which was allotted to his father before his retirement. Staff quarters as such are not inheritable.

14. The writ petition has no merit and the same is dismissed. No costs.
15. *Dasti.*

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 22, 2017
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