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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10312/2017**
SHRI PURUSHOTTAM BAINSLA & ANR Petitioners

Through: Mr Piyush Sharma, Mr Rajeev
Locham Mohumta, Advocates.

versus

UNION OF INDIA & ORS Respondents

Through: Mr Dev P. Bhardwaj, CGSC with Mr
Surender Kumar, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **20.11.2017**

CM No. 42052/2017

1. Exemptions is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 10312/2017 and CM No. 42051/2017

3. The petitioners have filed the present petition, *inter alia*, praying as under:-

- a. Issue Rule nisi as to why a writ of mandamus, prohibition and /or any other appropriate writ, order or direction be not issued against the Respondents.
- b. Issue an appropriate writ in the nature of mandamus or any other order, directions directing the Respondent No. 1 through its Allotment Officer of the concerned zone for Ad-hoc regularisation and sanction of the presently occupied Type III GPRA at Q. No 13, Ground floor Sadiq Nagar, Sector-1 New Delhi in terms of the Act and policy of Respondents;

- c. Pass and order to set aside the letter dated 19.01.2017 issued by the Respondents levying unwarranted damages for unauthorised stay.
- d. Pass such other and further orders as may be deemed fit and proper in the premises and circumstances of the present case.”

4. Petitioner no.2 was appointed in the Department of Central Public Works Department as LDC on 05.09.1977 and was allotted Quarter No. 13, Type III, Sector-I, Sadiq Nagar (hereafter ‘the accommodation in question’). Petitioner no.1 – who is the son of petitioner no.2 – was appointed as an Auditor in the office of Controller General of Defence (CGDA), Ministry of Defence, Government of India on 19.02.2014 and by virtue of his appointment, he was also entitled to Government accommodation.

5. Petitioner no.1 applied for regularisation of the accommodation in question in his favour on 20.08.2014. As petitioner no.2 had superannuated from the service on 30.06.2014, he was required to vacate the accommodation allotted to him.

6. Thereafter, certain proceedings were commenced under the Public Premises Act (Eviction of Unauthorised occupants) Act, 1971. However, it is not necessary to advert to the same in these proceedings. This is so as it is now admitted that petitioner no.1 was entitled to regularisation *albeit* for a type II accommodation, which was his entitlement at the material time - the date on which petitioner no.2 superannuated from service. This Court is also informed that a Type II accommodation has been allotted to petitioner no.1, which he has accepted.

7. Petitioner no.1 has filed the present writ petition, as petitioner no.1 is entitled to Type III accommodation with effect from 20.04.2017 on account of him being promoted to the post of Senior Auditor. Concededly, in a case of regularisation, the entitlement of the person seeking such regularisation is fixed on the basis of his entitlement on the date when his immediate relative (spouse or Parents) superannuates from service. Thus, plainly, petitioner no.1 was not entitled to regularisation of the accommodation in question, which is a Type III accommodation.

8. Although petitioner no.1 is now entitled to a Type III accommodation, the allotment of the accommodation in question cannot be regularised in his favour. Indisputably, there are a number of other employees who are waiting in the Queue for an allotment of a Type III accommodation. Plainly, the petitioners cannot jump the queue for a Type III accommodation. He has already been allotted a Type II accommodation (which in any case he acquires by a priority on account of claiming regularisation).

9. In view of the above, the relief sought for regularisation of the accommodation in question in favour of petitioner no.2 cannot be granted. As far as levy of damages is concerned, the petitioners would be at liberty to make a representation, which shall be considered in accordance with law.

10. The petition and the application are disposed of with the aforesaid observations.

VIBHU BAKHRU, J

NOVEMBER 20, 2017
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