

(2012) 11 SC CK 0078

In the Supreme Court Of India

Case No : Petition for Special Leave to Appeal (Civil) No. 32129 of 2012

Army Welf. Hng. Organization and Ors.

APPELLANT

Vs

Sushil Sharma

RESPONDENT

Date of Decision : 09-11-2012

Acts Referred:

Citation : (2012) 4 RCR(Criminal) 984

Hon'ble Judges : Mr. G.S. Singhvi and Mrs. Gyan Sudha Misra, JJ.

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This petition is directed against order dated 4.4.2012 passed by the National Consumer Disputes Redressal Commission, whereby the revision filed by the petitioners was dismissed and the order passed by the State Consumer Disputes Redressal Commission approving the direction given by the District Consumer Forum to the petitioners to restore the allotment of deluxe apartment in favour of the respondent was upheld.

2. Although, the case was taken up twice, no one has appeared on behalf of the petitioners and we do not think that there is any valid ground to adjourn the case.

3. Petitioner No.1 is a Welfare Society engaged in providing dwelling units to serving and retired Army personnel and their widows. The respondent submitted application dated 10.8.2005 for deluxe apartment in Sector 27, Panchkula and deposited Rs. 90,500/- as registration fee. He was allotted deluxe apartment vide letter dated 17.09.2006. After 10 days, the respondent made a representation for allotment of a dwelling unit of lower category but the competent authority did not pass any order on his representation. Rather, vide letter dated 3.12.2007, he was asked to pay for the deluxe apartment. The respondent paid the amount by selling his property. After the respondent had paid the price of deluxe apartment, petitioner No.1 sent letter dated 17.9.2009 and informed him about down grading the category of his dwelling unit from deluxe apartment to modern

apartment. The respondent protested against the same by asserting that he had already paid for the deluxe apartment. He then filed a complaint before the District Forum and questioned the down grading of his entitlement to deluxe apartment. The District Forum held that the down grading the category of dwelling unit allotted to the respondent amounted to deficiency in service and issued the following directions:

"I. To treat the letter (Ex C-5) dated 17/09/2009 as quashed vide which the Ops down graded the allotment of his Deluxe Apartment (DXA type) DU to Modern Apartment (MDA).

II. To restore/re-allot Deluxe Apartment (DXA Type) DU to the Complainant as per the seniority and entitlement.

III. To pay a lump sum compensation of Rs. 5000/- as mental agony, harassment and costs of proceedings."

4. The State Commission and the National Commission independently analysed the facts and expressed their agreement with the view taken by the District Forum.

5. In our opinion the detailed reasons assigned by the District Forum and the State Commission for recording a finding that there was deficiency in service on the part of the petitioners are legally correct and the directions issued by the District Forum do not call for interference under Article 136 of the Constitution.

6. The special leave petition is accordingly dismissed.