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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.2352 of 2002

New Delhi, this the 9th day of September, 2002

HON'BLE SH.S.A.T.Rizvi, MEMBER (A)

Shri Hitendra Kumar,
61, Lakshmi Bai Nagar,
New Delhi-23.

(By Advocate : Shri Abraham N.A)

-APPLICANT

Versus

1. The Secretary,
Union of India,
Ministry of Urban Development,
Nirman Vihar, New Delhi.

2. Section Officer,
General Section,
Directorate General of Health Services,
Nirman Bhawan,
New Delhi.

3. The Estate Officer,
Directorate of Estates,
Nirman Bhawan,
New Delhi.

-RESPONDENTS

O R D E R (ORAL)

Late Shri Kamal Kishore after working in the Central Electricity Authority (CEA) expired on 18th February, 2002. He was at that time residing with his family in quarter no. 61, Laxmi Bai Nagar, New Delhi. Applicant, who is the deceased employee's son, was sharing the aforesaid accommodation with the deceased employee. The applicant had in fact been residing with the deceased employee in the aforesaid accommodation throughout even though he was an employed person working as a Stenographer Grade "C" in the Ministry of Health and Family Welfare. During the course of his residence in the aforesaid quarter, the applicant had been drawing House Rent Allowance (HRA) also for sometime. He has not drawn HRA, however, since January, 2001 but continued to

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share the aforesaid accommodation with the deceased employee. The fact that he was sharing accommodation as above was very much in the knowledge of the respondent-authority. In any case, the applicant has Ration Card as well as Election I.D. Card, both showing the aforesaid address. Consequent upon the death of his father has sought regularisation of the aforesaid accommodation in his favour in accordance with the extant rules but the respondents have rejected the applicant's claim by simply stating that he did not fulfil all the terms and conditions for regularisation which are those conditions has not been indicated in the impugned letter of 18th June,, 2002 placed at A-4. To this extent, the aforesaid order can be said to a non-speaking order. Learned counsel appearing on behalf of the applicant submits that the aforesaid impugned order is bad in law inasmuch as it does not assign any specific reason in support of the rejection of the applicant's claim. He also relies on the orders passed by Delhi High Court in a similar case in CW 113/1996 - CM 214/1996 (A-H) on 23.7.1997. The High Court had, in that petition, dealt with the case of a retired employee whose daughter sought regularisation of the accommodation which she had shared with the retired employee in her favour. In that case also, the applicant seeking regularisation, namely, the daughter of the retired employee, had drawn HRA for some time. The High Court, after considering the matter, directed regularisation of allotment in the petitioner's favour subject to her depositing the arrears of House Rent Allowance along with interest @ 12% p.a. after adjusting for the period she had already forgone.

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Learned counsel submits that the applicant's case should be dealt with and decided by the respondents on this basis, since there is nothing in the rules which could prevent respondents from deciding the matter as above. According to him, the applicant fulfilled all the conditions laid down in the relevant rules for regularisation of the aforesaid accommodation. The applicant has not filed any representation against the impugned letter of 18th June, 2002 (A-G). In the peculiar circumstances of this case, the applicant will not be averse, according to learned counsel, to a direction being to the respondents to consider the present OA as a representation to be disposed of expeditiously by the respondents by passing a reasoned and a speaking order by having regard, inter alia, to the ratio of the judgement of the High Court in the above case.

2. Having regard to the submissions made, I find that it will be just, proper and in order to dispose of the present OA at this very stage even without issuing notices in the following terms:-

(i) The respondent will consider the contents of the present OA as a representation and pass a reasoned and a speaking order in the matter expeditiously and in any event within a period of three months from the date of receipt of a copy of this order.

(ii) In the event of an adverse order being passed, the respondents will state their reasons clearly citing the rule position in support of their reasons.

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(iii) In the event an adverse order being passed by the respondents, the applicant will have the liberty to seek revival of the present OA or to file a fresh OA in accordance with law as advised.

3. I have been informed that following the death of the applicant's father on 18th February, 2002, permission has already been granted to him to continue to reside in the same accommodation for a period of 24 months. This permission will hold good notwithstanding any order passed by the respondents as above.

4. The present OA is disposed of in the aforestated terms.



(S.A.T. Rizvi)
MEMBER(A)

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