

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.3113 of 2002

New Delhi, this the 25<sup>th</sup> day of April, 2003

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Som Dutt  
77/6, Old Pinto Park  
Air Force Station, Palam, Delhi Cantt .. Applicant  
(By Advocate: Shri A.K.Trivedi)

Versus

Union of India, through

1. Secretary  
Ministry of Defence  
South Block, New Delhi
2. Garrison Engineer (North)  
Air Force Palam  
Delhi Cantt-10
3. Unit Account BSO(North)  
Air Force Palam  
Delhi Cantt-10

.. Respondents

(By Advocate: Shri A.K. Bhardwaj)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant in this case has assailed an order dated 24.10.2002 vide which the respondents are compelling the applicant to deposit damage rent raised in 2/2002 and forwarded under order dated 28.2.2002 for occupation of Government Married Accommodation No.77/6, Old Pinto Park, Delhi Cantt. for consideration of his case for regularisation of said quarter in his name.

2. The facts in brief are that the father of the applicant was serving in Military Engineering Service (MES) who was declared medically unfit for further services on 26.8.1994. Thereafter the father of the applicant retired on 10.9.1994. Since the father of the applicant was retired on medical grounds, the mother of



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the applicant submitted a representation on 30.9.1994, to consider the case of her son for compassionate appointment. After exchange of lot of correspondence ultimately the applicant was offered the letter of appointment on 29.1.1996 which was received on 10.2.1996 and the applicant joined the service on 15.2.1996 after a gap of 16 months. The applicant further submits that this is because not of any latches on the part of the applicant and the delay had occurred only on account of administrative reasons.

3. After joining service the applicant made a representation to the respondents on 7.3.1996 and submitted that he may not be paid HRA and the quarter in question to be regularised in his name. Though the respondents are deducting HRA from the pay and allowances of the applicant yet the quarter has not been regularised in his name. The applicant has been making representations for regularisation of the said quarter. But respondents ultimately had directed the applicant to vacate the quarter by 25.1.2001. The applicant insists that he is entitled for accommodation and ultimately his case was considered and respondents had agreed to regularise the quarter subject to his depositing the damage rent. The applicant, however, submits that he is ready to pay normal licence fee and he will abide by the undertaking given by him to this effect.

4. The applicant further submits that this Tribunal in the case of Ram Chander and Another Vs. Union of India and others in OA No.453 of 1995 had directed that normal licence fee is to be charged and

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also directed for regularisation of quarter in the name of the applicant therein who was similarly given appointment on compassionate grounds.

5. The respondents have contested the OA. The respondents have submitted that the Govt. accommodation can be regularised in the name of the defendant govt. servant only in such cases where the person given appointment on compassionate ground get employment within the time limit during which the retiree or deceased employee is entitled to retain the accommodation on concession and in the present case since there is a gap between compassionate appointment and the expiry of duration during which the retiree was entitled to retain the quarter, the same cannot be ignored.

6. It is further submitted that in case the applicant deposits the damage rent then there is a possibility of regularisation of accommodation in accordance with rules.

7. I have heard the learned counsel for the parties and gone through the records.

8. The only question before this court is whether the delay in grant of appointment on compassionate ground had occurred due to administrative lapse or because of any delay on the part of the applicant. As far this aspect is concerned, I may mention that the applicant's father was finally declared medically unfit on 26.8.1994 and he was made to retire on 10.9.1994 vide order dated 15.9.1994 and within 15 days, i.e., on 30.9.1994, the



applicant submitted his application for appointment on compassionate grounds. There was no delay on his part and delay in grant of compassionate appointment had occurred because of the administrative reasons or of the red tapism which took place while the ball was in the court of the respondents so the applicant cannot be made to suffer on that account.

9. The reliance by the applicant on the judgement referred to above, which fully apply to the present facts of the case, assists the applicant fully. It is not the case of the respondents that the applicant is not entitled to the accommodation which he is occupying nor there is any dispute of pool of accommodation as it belongs to the same residential pool except there is delay and a gap of period between the retirement of the applicant's father and the grant of compassionate appointment. There is no ground on which the accommodation cannot be regularised. There is no delay on the part of the applicant since the applicant had applied within 15 days of the retirement of the father so the delay if any had occurred in the office of the respondents in not offering appointment on compassionate grounds to the applicant in time and there is no fault of the applicant.

10. Hence, I find no reason to differ with the judgement relied upon by the applicant stated above. OA deserves to be allowed. Accordingly the OA is allowed and the respondents are directed to regularise the

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accommodation in favour to the applicant on payment of normal licence fee within a period of two months from the date of receipt of a copy of this order. No costs.

*[Signature]*  
( KULDIP SINGH )  
MEMBER(JUDL)

/Rakesh

*Decision for 2<sup>nd</sup> time*