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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2017/2002

This the 30th day of April, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

L.K. Sahoo
Q.No.14/809, Lodhi Colony
New Delhi

Applicant

(By Advocate: Sh. M.K.Bhardwaj)

Versus

Union of India, through

1. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi

2. Director of Estate (DE-II)
Estate Office.
Nirman Bhavan, New Delhi

3. Deputy Director (Admn/Estate)
Directorate General of Security(ARC)
Cabinet Secretariat, Block V(East)
R.K.Puram, New Delhi

Respondents

(By Advocate: Sh. S.M.Arif for Resp. No.1 & 2
Sh. B.K.Berera for Resp. No.3)

ORDER (ORAL)

Applicant occupying quarter No.14/809, Lodhi Colony has filed this OA seeking a direction to the respondents to regularise the same in favour of the applicant from the date of submission of application.

2. The facts in brief are that the applicant's father who was also in Govt. service was allotted the quarter in question. Applicant has started living with his father and is not drawing HRA since 1996. Unfortunately his father expired on 21.2.2001. Applicant thereafter applied for regularisation of quarter which was allotted to his father.

3. Respondents are contesting the OA. Respondents submitted that applicant is occupying the quarter in question but on the

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date of death of his father when applicant applied for regularisation of that quarter his basic pay was Rs.5500/-. Therefore the applicant was eligible for allotment only of Type-II quarter as the basic pay required for Type-III was minimum Rs.5500/-.

4. Respondents further submitted that as per rules and regulations, a sanction for Type-II quarter was accordingly issue on 19.9.2002 but the applicant requested for regularisation of the same quarter to the Hon'ble Minister. The case of the applicant was examined and not found acceptable as the case is not covered under the rules and accordingly reply was issued with the approval of the Hon'ble Minister of Urban Development.

5. Counsel for applicant has referred to a judgment delivered by Hon'ble High Court where the pay of the applicant is to be taken on the date of death of the father of the applicant. Hon'ble High Court in a similar case has observed that the relevant date would be the date on which the father of the applicant has died which was the date on which cause of action has arisen for regularisation of quarter in name of respondent No.2.

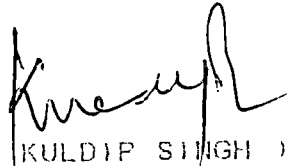
6. In this case since the father of the applicant had expired on 28.2.2001, the crucial date would be as on 28.2.2001. There is no doubt that on the said date applicant was eligible for type of quarter which the applicant was occupying. However, the respondents pleaded that as per Annexure R-2, the OM issued by the department the dependent would be eligible for allotment of type of quarter one below his entitlement. So one type below quarter was offered to the applicant but



learned counsel for applicant has referred to a subsequent office memo issued by the Govt. of India dated 20.5.99 which makes a provision for regularisation or allotment of alternate accommodation in the name of eligible ward/spouse in the event of retirement/death of the allottee. It says that as per the existing instructions accommodation one type below the entitlement of the applicant is regularised/allotted to ward/spouse, on payment of normal licence fee, in the event of retirement/death of the allottee.

7. However, keeping in view the hardship and dislocation being faced by the family of the allottee it has now been decided with the approval of the competent authority that entitled type of accommodation will be regularised/allotted to ward/spouse in the event of death/retirement of the allottee. Since there is no dispute that the applicant is a ward of deceased employee and he is entitled to the type of accommodation which his father was occupying, applicant is eligible for allotment/regularisation of the same.

8. Accordingly, the OA is allowed. Respondents are directed to regularise the accommodation in question in the name of applicant.


(KULDIP SINGH)
Member (J)

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