

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. Bo.
T.A. Bo.

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14

DATE OF DECISION: 24-7-2000

24-7-2000

Smt. Harbans Kaur

....Petitioner(s)

Sh. D. S. Mahendru

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

Sh. Rajinder Nischal

....Advocate for the
Respondents.

OPINION

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)
The Hon'ble

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal: No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1456/99

(15)

New Delhi, this the 24th day of July, 2000

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

In the matter of:

Smt. Harbans Kaur,
W/o Late Sh. Mohan Singh
House No. 41/2, Kabul Lines,
Delhi Cantt-110010. Applicant
(By Advocate: Sh. D.S.Mahendru)

Vs.

Union of India through

1. Secretary,
Ministry of Defence,
New Delhi.
2. The Estate Officer/Station Commander,
Delhi Station,
Station Headquarters,
Delhi Cantt-110010. Respondents
(By Advocate: Sh. Rajinder Nishcal)

ORDER (ORAL)

By Mrs. Lakshmi Swaminathan, M(J)

The present application has been filed by the applicant impugning the order dated 12.6.99 issued by the respondents cancelling the allotment of Quarter No. 41/2, Kabul Lines, Delhi Cantt.

2. The brief facts of the case are that the applicant's husband died in harness while working with the respondents on 18.1.98, leaving behind the applicant and two children. The applicant had also made a representation dated 6.2.98 seeking permission to retain the aforesaid Govt. accommodation as per rules. Later, she had made further representations requesting the respondents to allow her to retain the Govt. accommodation for another one year in terms of the Govt. of India OM dated 9.6.98. It is noted from the relief sought in para 8 of the OA that the main relief prayed for by the applicant is for a direction to the respondents to grant her

(16)

further retention of the Govt. accommodation in her possession for one more year, i.e. upto 18.1.2000 in accordance with the Govt. of India OM dated 9.6.98.

3. Notice on OA was issued on 22.6.99 but it is noted that the respondents filed their reply only on 17.4.2000. In the reply, they have submitted that the provision for extension upto 2 years by the Directorate of Estate letter dated 9.6.98 had been circulated later on and hence, the impugned cancellation order was passed. However, they admit that in view of the provisions of this OM, the applicant's request for retention of the quarter which was earlier allotted to her deceased husband has to be allowed upto 17.1.2000.

4. Sh. Mahendru, learned counsel for applicant has submitted that if the respondents had either acted in accordance with the aforesaid Govt. of India OM dated 9.6.98 in time or at least filed the reply within a reasonable time, without taking as much as nearly 10 months, the applicant's request could have been amicably settled and she would have been satisfied that her request has been acceded to. He has also submitted that after the reply has been filed by the respondents, the applicant filed the rejoinder on 17.7.2000. However, learned counsel ^{has} submitted that after the reply was filed on 17.4.2000 the matter was placed before the JR for completion of pleadings on 8.5.2000. Thereafter the case was listed on 5.7.2000 when both the learned counsel were present and it was fixed for final hearing today. He has also submitted that the applicant is out of station at the moment and he has, therefore, prayed that the applicant may be granted at least 4 weeks to vacate the Govt. accommodation. In the

Yours

(17)

circumstances of the case, he has prayed that the respondents may be directed to charge normal rate of licence fee for the intervening period. Learned counsel for the respondents, on the other hand, has submitted that the rent for the intervening period of the applicant stay in the Government accommodation beyond 17.1.2000 has to be charged at the rates prescribed under the rules and regulations which are approximately five times the normal rent. He has also submitted that the applicant had been allowed to stay in the quarter for another year, i.e., upto 18.1.2000 and the OA may, therefore, be dismissed.

5. I have considered the pleadings and submissions made by the learned counsel for the parties.

6. I find some force in the submissions made by Sh. Mahendru, learned counsel for the applicant that the respondents have indeed taken an inordinately long time to file the reply to the OA. Their contention that they have received a copy of the OM issued by the Govt. of India dated 9.6.98 only in August 1999, cannot be taken as a reasonable excuse for the inordinate delay. Notice to file reply has been issued to the respondents on 22.6.99 and it is also noted that on several dates when the case was called out, none has appeared for the respondents. In the meantime, the interim order dated 22.6.99 restraining the respondents from giving effect to the impugned orders dated 12.6.99 and 16.6.99 was operating. In the facts and circumstances of the case, if the respondents had made their submissions based on the relevant OM dated 9.6.98 in time at least before the relevant date, on which the applicant could have vacated the quarter, i.e. on 18.1.2000 it could have been stated that they have not delayed

18/

the matter. It is also relevant to note that the learned counsel for the applicant has stated that the applicant is at present out of station and is not likely to return to Delhi within the next two weeks to enable her to vacate the aforesaid accommodation.

7. Therefore, in the particular facts and circumstances of the case which is not to be quoted as ^a precedent, the OA is disposed of with the following directions:-

- (i) The impugned order dated 12.6.99 read with order dated 16.6.99 are quashed and set aside;
- (ii) The applicant shall, however, vacate the possession of the aforesaid Government accommodation within four weeks from the date of receipt of a copy of this order and hand over the same to the competent authority;
- (iii) The applicant shall pay normal rent for the quarter upto 17.1.2000 and thereafter, twice the normal rent till the date of vacation of the quarter.

No order as to costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
Member (J)

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