

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.162/99

New Delhi this the 17th day of February, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN

Shri Kedar Nath Mukherjee,
245, Aliganj, Lodi Road,
New Delhi-110 003.

...Applicant

(By Advocate Ms. Shrabani Chakrabady)

-Versus-

1. Union of India
through Director,
Ministry of Urban Affairs
and Employment,
Nirman Bhawan,
New Delhi-110 011.
2. The Director,
The Directorate of Estate,
Maulana Azad Road,
Nirman Bhawan,
New Delhi.
3. The Delhi Administration,
Govt. of N.C.T. of Delhi
through, Secretary,
Department of Land and Building,
New Delhi.

...Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R (ORAL)

The applicant was working in the Ministry of Home Affairs as a Peon under visually handicapped category since 8.9.92 and he was allotted a type-I accommodation. He was subsequently selected by the Delhi Administration, Directorate of Education as TGT (Music) and he was relieved on 4.11.93 and joined on 5.11.93. The applicant, however, continued to reside in the quarter allotted by the Central Government. By the impugned order dated 6.1.99 the applicant is sought to be evicted from the quarter on the ground that he was in unauthorised occupation, as he ceased to be an employee of the Central Government.

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2. The learned counsel for the applicant, however, strenuously contends that the applicant is entitled to continue in the quarter as the TGTs working in the Directorate are entitled to be allotted quarter from the Central Pool. It is further contended that the applicant, being the 100 per cent visually handicapped, is entitled for consideration of his case with adequate sympathy ~~over~~ de hors the rules.

3. The learned counsel for the first applicant Shri V.S.R. Krishna, however, submits that the rules do not provide for the continuance of the applicant in the quarter allotted by the Central Government in the Central Pool. The applicant having resigned and severed his connection with the Central Government cannot be permitted to continue in the quarter belonging to the Central Government. Even if the applicant is treated as having been retired he is only entitled to be continued only for a period of one month.

4. Having given careful consideration to the arguments of the learned counsel on either side, I do not find any substance in the plea of the applicant. It is common ground that the applicant was originally allotted the quarter when he was the employee under the Central Government, from the Central Pool by the Central Government and that he thereafter having been selected by the Delhi Administration he joined there on 5.11.93. Thus the applicant is no longer the employee of the Central Government. It must be noted that this is not either a

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transfer or a deputation. Upon a fresh selection by the Delhi Government he has resigned, which was, however, treated by the first respondent as a technical resignation w.e.f. 4.11.93. ^L ~~The effect of~~ such treatment as technical resignation can ^L ~~be~~ ^{have effect} for the purpose of treating the earlier service of the applicant and for the payment of other benefits such as pension etc. from the Central Government. As far as ^L ~~the service~~ ^{severance} of the applicant from the Central Government is concerned, it has become final and he ~~is~~ ceased to be an employee of the Central Government. Once the applicant ~~is~~ ceased to be the employee of the Central Government he cannot be continued in the quarter belonging to the Central Government. The learned counsel for the applicant, however, relies upon a letter dated 18.9.98 wherein an endorsement is appended thereon whether the quarter can be considered for exchange from the Delhi Government. It is also stated in another endorsement that if rules permit, the applicant may be helped. Subsequent to this letter written by the applicant to the Hon'ble Minister. No order has been passed by the Central Government in this regard.

5. The OM dated 27.12.91 relates to allotment of General Pool accommodation for Teachers/other staff working in the schools of Delhi Administration. In this order a categorical decision has been taken by the Government that the Teachers and other staff of Delhi Administration are not eligible for allotment on their initial appointment from the General Pool in Delhi. However, on sympathetic consideration the Government

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decided not to disturb the allotment made already in their favour. Thus, by virtue of this decision of the Central Government the position is now made clear that the staff of the schools of the Delhi Administration are not entitled for allotment from the General Pool.

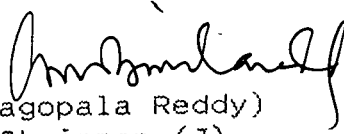
6. It is true that the applicant deserves all sympathy being toally visually handicapped. But it is wholly unjustified for me to ignore the legal position and direct the Central Government which is not the employer of the applicant to continue him in their quarter in respect of a person who ceased to be their employee. It is for the Delhi Administration to keep in mind the case of the applicant which deserves all sympathy ^{at} ~~from~~ their hands and consider allotment of a quarter as early as possible. The learned counsel for the applicant also relies upon the judgement in OA-1963/91. In that case the Central Government employee has been transferred on deputation to Delhi Administration from CPWD. While working as employee of the CPWD he has been allotted a quarter. The applicant therein sought for continuance to reside in the quarter even after his deputation to the Delhi Government. When he was threatened with eviction he filed the above OA. The Division Bench of the Tribunal, however, has taken the view that it was unjust to evict him and a direction was given to the Central Government that unless the Delhi Administration allot a quarter to the applicant from their pool the applicant cannot be evicted from the quarter allotted to him by the Central Government. No discussion is made as to the eligibility of the applicant to continue

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in the quarter belonging to an ex-employer. Moreover the applicant therein was on deputation to the Delhi Administration and that he has not completely ceased to be employee of the Central Government. This case is, therefore, distinguishable from the facts of the present case.

7. I, therefore, direct the Delhi Administration (R-3) to consider the case of the applicant, who is visually disabled, for allotment of a quarter, with sympathy, as early as possible.

8. With the above observations, the OA is disposed of. No costs.


(V. Rajagopala Reddy)
Vice-Chairman (J)

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