

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

OA 183/1999

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New Delhi this the 17th day of February, 2000

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

1. Sh. Suresh Chand, LDC  
S/O Late Sh. Nathu Ram  
R/O D-13, Campus Quarter  
G.B.Pant Hospital, New  
Delhi-2
2. Smt. Sharbati Devi  
W/O Sh. Nathu Ram  
R/O D-13, Campus Quarter,  
G.B.Pant Hospital, New Delhi-2

.. Applicants

(By Advocate Sh. R.L. Sethi )

Versus

Govt. of NCT of Delhi, through

1. P.H.C.-Cum-Joint-Secretary  
(M-III) Health  
Estates Cell, L-Jawahar Lal  
Nehru Marg, New Delhi-2

.. Respondents

(By Advocate Sh. C.K. Chopra, learned  
counsel through proxy counsel Sh.  
R.K. Singh )

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminthan, Member (J)

The applicant is aggrieved by the Memo. issued by the respondents dated 15.9.98 in which they have stated that as applicant No.1 had not secured Govt. job within twelve months from the date of his father's death and as the accommodation was to be allotted only to essential staff, the allotment could not be regularised. Accordingly the allotment of the quarter which had been earlier allotted to his father i.e. D-13, Campus Quarter, G.B.Pant Hospital, New Delhi has been cancelled.

2. The brief facts of the case are that the father of applicant No.1 died while in service on 11.3.95. <sup>18</sup> Applicant 2 had made a representation to the respondents on 25.4.95 for appointment of her son on compassionate grounds. Admittedly

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the respondents have appointed applicant 1 as LDC on compassionate grounds w.e.f. 3.1.1997. Shri R.L.Sethi, learned counsel for the applicant has submitted that in the light of the subsequent O.M. passed by the Ministry of Urban Affairs and Employment, Directorate of Estates dated 19.11.1998 the family of the deceased employee was entitled to remain in the Govt. accommodation for a period of two years. It is, however, not denied that at that time when the applicant's father died, the rules permitted the family of the deceased employee to continue in the Government accommodation for a period of one year only. Applicant's counsel has also submitted that the respondents have allowed many quarters belonging to Ministerial cadre, the names of such persons have been given in Para 10 of the OA, and there is no reason why in the above facts and circumstances of the case, the respondents could not have regularised the aforesaid quarter in the name of the applicant. Learned counsel relies on the judgement of the Tribunal in Arvind Tiwari and Ors. Vs. UOI & Ors. (OA 641/97) decided on 29.7.1997 and contends that in the present case, the process of appointment as LDC should be considered as having been started when applicant 2 had made his representation for appointment on compassionate grounds on 25.4.95. He has, therefore, contended that the appointment of applicant 1 on compassionate grounds should be considered within the period permitted under the Rules, whether it is one year or two years, and hence he has prayed that the impugned order should be quashed and set aside and a direction may be given to the respondents to regularise the aforesaid quarter in his name, with consequential benefits.

3. I have seen the reply and heard Sh.R.K.Singh, learned proxy counsel for the respondents.

4. The respondents have submitted that the applicant's representation dated 11.12.1997 was considered and rejected

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because the applicant failed to secure a Govt. job within one year of the death of his father i.e. upto 11.3.96. They have also submitted that the applicant belongs to Ministerial Staff and the quarter is meant only for the essential staff of MAM College. Learned proxy counsel has, therefore, submitted that this application is liable to be dismissed. (8)

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

6. On the death of father of applicant 1, admittedly the relevant rule permitted the family of the deceased employee to retain the accommodation earlier allotted to him for a period of one year. Therefore, in this case the applicant would have been entitled to continue in the Govt. quarter upto 11.3.1996. The contention of Shri R.L.Sethi, learned counsel for the applicant that because applicant No.1 had submitted a representation for compassionate appointment on 25.4.95 and, therefore, this will be the date which is relevant for the purposes of securing the appointment as LDC cannot be accepted. In the judgement of the Tribunal in Arvind Tiwari's case(Supra), it is noticed that the applicant had contended that even though he had been appointed only in October, 1996 by order dated 8.9.95, the approval for the appointment had been secured earlier. In the present case, no such order has been placed in the file to show that even the approval of the appointment had already been secured within the one year permissible under the rules. The applicant himself has stated that he had been appointed on compassionate grounds w.e.f. 3.1.97 i.e. after a period of one year and 9-months after the death of his father.

7. The contention of Shri R.L.Sethi, learned counsel that subsequently the OM issued by the Govt.of India, Ministry of Urban Affairs and Employment, Directorate of Estates dated 19.11.1998 is applicable to the facts and circumstances of the case is again misconceived. Para 3 of the OM provides that the

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benefit of regularisation/ ad hoc allotment of Govt. accommodation will be permissible where the period of two years has not expired as on 1.6.98 i.e. the date of issue of the policy/OM dated 9.6.98. In the present facts and circumstances of the case this condition is not satisfied as the period of two years from the date of the death would expire on 11.3.97 which is prior to the cut off date as mentioned in the OM dated 19.11.1998. Learned counsel for the applicant has also submitted that further directions may be given to the respondents to re-consider the matter.

8. In the facts and circumstances of the case, I do not find any merit in this case. In the above circumstances, the other contentions raised by the applicant regarding the eligibility of ministerial cadre staff for allotment of the Govt. quarter will not assist him as the main conditions prescribed under the Rules itself have not been fulfilled by the applicant. I have also considered the other submissions made by the learned counsel but I do not find merit in the same.

9. In the result, OA fails and is dismissed. No order as to costs.

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

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