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Central Administrative Tribunal, Principal Bench

Original Application No.2434 of 1999

New Delhi, this the 17th day of May,2001

Hon'ble Mr.Kuldip Singh,Member (J)

Sanjay Kumar Paswan
S/o Shri Ram Bali Paswan,
aged about 34 years
Resident of : I-65, Krishi Kunj
Pusa, New Delhi-12

- Applicant

(By Advocate: Shri B.B.Raval)

Versus

1. Indian Council of Agricultural Research,
Through the Secretary Krishi Bhawan, New
Delhi-110001
2. The Director, Indian Agricultural
Research Institute, Pusa, New Delhi-12
3. The Admn. Officer, Indian Agricultural
Research Institute, Pusa, New Delhi-12

- Respondents

(By Advocate: Ms.Anuradha Priyadarshini)

O R D E R

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

Applicant had filed OA-2434/99 for regularisation of quarter no.I-65, Krishi Kunj, Pusa, New Delhi which was allotted to his father, in his name as he has also been employed in the same organisation since 1989. The said OA was dismissed vide Tribunal's order dated 15.11.99. Thereafter the applicant filed a review application no.247/99 which was allowed on 25.11.99 and the OA was restored to file for fresh hearing.

2. Learned counsel for the applicant submitted that in a similar matter in OA-1565/97 (Sachidanand & anr. vs. ICAR & anr.) which also pertained to the same department to which the applicant belongs and in that case, applicants' prayer was allowed and the quarter was directed to be regularised in the name of the son of the former employee. Therefore on the same

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lines, the present applicant is also entitled for regularisation of the quarter in his name as he has also been not drawing the HRA for the last three years of his past service.

3. Respondents are contesting the OA. They have admitted that the quarter in question was allotted to the father of the applicant as an incident of service. Applicant's father retired from service of the Institute on 30.6.95 and, thereafter, the quarter was cancelled in his name w.e.f. 1.11.95 after allowing him to retain the quarter for a period of four months. Applicant who was also working as SSG-I in the establishment of Entomology, made a request for allotment of the said quarter after the retirement of his father as permissible under the rules. Applicant also stated that he was residing with his father in the said quarter and had not been drawing HRA since August, 1992. On verification also, it was found that the applicant had been working in the Institute w.e.f. 27.9.89 and not drawing the HRA since August, 1992. It is further submitted that as per the rules in this regard, the application for ad-hoc allotment must be submitted by the eligible dependant of retired official within a period of one month from the date of retirement of his father/mother. But the applicant submitted his representation late on 1.8.95 i.e. after more than one month from the date of retirement of his father.

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4. Respondents have further pleaded that eviction proceedings had been taken up against the father of the applicant by the Estate Officer and an eviction order was passed against him after which the father of the applicant filed a case in the court of Shri S.N. Aggarwal, ADJ, Delhi and got a stay order against the eviction. Subsequently, after a long gap of period during which Shri Ram Bali Paswan continued in the quarter by virtue of the stay order, withdrew the appeal and the same was dismissed by the Hon'ble court. After withdrawal of the appeal, there was no order existing by virtue of which Shri Ram Bali Paswan could continue in the Govt. accommodation and the eviction order of the Estate Officer was liable to be given effect. Therefore the father of the applicant was advised to vacate the quarter immediately to avoid eviction action. The applicant informed the respondents that his father had disappeared and a police report had been lodged in respect of the same. Further the applicant himself met with an accident and got his backbone fractured and as such, he requested for one month's time to vacate the residence. However instead of vacating the accommodation for which he had sought time, the applicant filed the present O.A. before the Tribunal.

5. It is mentioned by the respondents that the father of the applicant had not been paying licence fee during the period for which he was allowed to retain the accommodation. A sum of Rs.17,124/- is stated to have been recovered as damage charges from the pension payable to Shri Ram Bali Paswan. Further

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a sum of Rs.43,488/- upto December,1999 is still outstanding against Shri Ram Bali Paswan towards the damage licence fee in respect of the quarter. It is submitted that the impugned order dated 9.11.99 is addressed to Shri Ram Bali Paswan calling upon him to vacate the quarter and applicant has no locus standi to challenge the same.

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

7. From the perusal of impugned order dated 9.11.99 which is being challenged by the applicant, I find that this order is addressed to the father of the applicant and his father has been termed as an unauthorised occupant of Institute's residence at I-65, Krishi Kunj. It has also been pointed out that since his case has been dismissed by the court, hence Shri Paswan is liable to vacate the premises.

8. In his rejoinder, applicant has submitted that it is not in his knowledge that his father had filed a case before the Additional District Judge and the same was withdrawn. The main contention of the applicant is that as per the department's rule, he is entitled for regularisation of the quarter in his name when he had not been drawing the H.R.A. for a period of three years before the superannuation of his father.

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9. I may mention here that the fact that estate officer had taken up the proceedings against the applicant's father and an eviction order was passed against which he had filed an appeal before the Addl. District Judge, these facts have been denied by the applicant only for want of knowledge. Applicant does not categorically deny that no eviction order had been passed against the original allottee i.e. his father.

10. Learned counsel for the applicant referred to a letter dated 1.5.96 at Annexure A-5 which reads that the relevant information with regard to several S.S. Grade-I employees had not been prepared by the Assistant Administrative Officer (in short 'AAO') Mr. J.P. Sharma and the same could not be sent in time to the Head of the Division. Therefore, it was requested that in view of the fault of the officer, the allotment of quarter might be made in the name of Shri Sanjay Kumar son of Shri Ram Bali Paswan. This letter was written by the Farm Manager, IARI to the Senior Administrative Officer, IARI. Thus it shows that there was some lagging on the part of officers concerned with regard to regularisation of quarter in the name of the applicant.

11. There is no doubt that the rules also provide for allotment to be regularised in the name of son when both are employees of same department and where both father and son apply for regularisation of quarter. In this case, internal correspondence was also exchanged recommending that the son is entitled for regularisation of the quarter in his name. In the

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case of Sachidanand (supra) also, the respondents were directed to regularise the accommodation in the name of the son subject to payment of licence fee as per rules. In view of the fact that applicant is also a similarly situation person and has relied on the same rules on the basis of which Sachidanand's O.A. had been allowed in his case. Further letter at Annexure A-5 written by the department itself shows that there was a fault on the part of one AAO due to which applicant could not be considered for allotment of the quarter in his name, thus OA deserves to be allowed.

12. I, therefore, allow the OA with a direction to respondents to regularise the quarter which was allotted to applicant's father, in his name within a period of three months from the date of receipt of a copy of this order, subject to charging of normal licence fee. No costs.


(Kuldip Singh)
Member(J)

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