

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.

886/99

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T.A.No.

DATE OF DECISION 29-3-2000

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Sh. Anil Kumar and Ors

....Petitioner

None present

....Advocate for the  
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

None present

....Advocate for the  
Respondents.

CORAM

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

O.A.886/99

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New Delhi this the 29th day of March, 2000

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

1. Anil Kumar,  
S/o late Shri Ram Kripal,  
R/o Qr. No. 17-G, Arambagh,  
New Delhi-110055.

2. Mrs. Chanchal Devi,  
W/o late Shri Ram Kripal,  
R/o Qr.No. 17-G, Arambagh,  
New Delhi-110055.

... Applicants.

None present.

Versus

Union of India & Others through

1. The Secretary,  
M/o Urban Development,  
Nirman Bhawan, New Delhi.

2. The Director of Estate,  
Directorate of Estate,  
M/o Urban Development,  
Nirman Bhawan, New Delhi.

3. The Estate Officer,  
Directorate of Estate,  
M/o Urban Development,  
Nirman Bhawan, New Delhi.

4. The Secretary,  
M/o Finance, Dept. of Revenue,  
North Block, New Delhi.

... Respondents.

None present.

O R D E R (Oral)

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

The applicants, two in number, have filed this application challenging the validity of the orders passed by the respondents dated 5.11.1998, 16.10.1997, 21.7.1997 and 25.1.1999 by which the allotment of the Government Quarter bearing No. 17-G, Arambagh, New Delhi which had been earlier allotted to late Ram Kripal,

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has been cancelled, and the applicants have been declared unauthorised occupants and eviction proceedings initiated against them, rejecting their request for regularisation of the quarter in the name of applicant No. 1.

2. The brief relevant facts of the case fall in a narrow compass. Shri Ram Kripal had been allotted the aforesaid quarter while in service with Respondent No. 4, <sup>and he retired</sup> on 16.1.1996. The allotment of the quarter has been cancelled in his name w.e.f. 16.1.1997, after allowing the concessional period of one year admissible under the Rules for dependents of the deceased employee to stay in the quarter. Applicant No. 1, who is a son of the late Shri Ram Kripal, got compassionate appointment as Messenger in the same department on 23.5.1997, that is after a gap of 1 year, 4 months and 7 days between the death of the father and the date of his appointment. The request of the applicants for regularisation of the quarter, in question, in their name has been rejected by the respondents in the aforesaid impugned letters. The applicants have contended that the delay in making the compassionate appointment by Respondent No. 4, beyond one year had occurred mainly due to administrative reasons/office procedure and applicant No. 1 had actually secured <sup>the</sup> job on 5.2.1997. They <sup>that</sup> have contended <sup>that</sup> as there has been no delay or negligence on their part and the delay which has occurred is beyond their control, they should not be penalised. They have also submitted that the office of Respondent No. 4 have repeatedly asked the other respondents, namely, the Ministry of Urban Development to regularise the quarter in their favour which has, however, been rejected.

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3. Applicant No. 1 has contended that he is eligible for regularisation of the aforesaid quarter in his favour as he fulfils the conditions laid down in the Rules for this purpose. The applicant has also submitted that he being<sup>a</sup> class IV low paid employee and belonging to the ST category having minor children to look after, a sympathetic view should be taken in the matter to have the quarter regularised in his name. In the circumstances, the applicants have submitted that the impugned orders are illegal, arbitrary and mala fide and also against all cannons of fair play, equity and <sup>conscious</sup> good/. Hence, they have prayed that the impugned orders may be quashed and set aside. They have also submitted that the proceedings held before the Estate Officer was a composite proceeding and the Estate Officer had been hyper-technical in the matter with the sole object to defeat their claims for regularisation of the quarter.

4. I have perused the counter replies filed on behalf of the respondents. Respondent No. 4 in their reply have submitted that after the death of Shri Ram Kripal on 16.1.1996 while still in service, they have appointed applicant No. 1, his son, as Sandeshwahak (Group 'D' employee) on compassionate grounds. They have submitted that some time had been taken to complete various formalities before giving<sup>the</sup> appointment, which he joined on 23.5.1997, that is after lapse of a period of about 1 year and 4 months. They have submitted that the impugned orders have been passed by Respondents 1-3 who are the competent authority to consider the request of applicant No. 1 and take a decision in the matter regarding regularisation of the quarter in his name.

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5. Respondents 1-3 in their reply have, after referring to the relevant facts, submitted that as the applicant had secured employment in the Department where his father had worked earlier, beyond the prescribed period permissible for regularisation of the quarter, his request could not be acceded to. Hence, the regret reply had been given to the applicant which has been impugned in this O.A. They have also submitted that as per the relevant rules on the subject, the regularisation benefit was permissible if the ward had secured employment within one year (extendable by one month in deserving cases) of the death of the allottee. The latest instruction dated 19.11.1998 wherein the regularisation benefit has been extended, where the period of two years has not expired on 1.6.1998, is not applicable to the present case as the allotment of the quarter in the name of the deceased employee was cancelled w.e.f. 16.1.1997, that is before the cut off date <sup>of 13</sup> 1.6.1998. Hence, they have submitted that the regret letter dated 23.7.1997 and eviction proceedings order dated 8.8.1997 have been issued to the applicants. The respondents have contended that their action has been taken in accordance with the Rules and instructions and have, therefore, prayed that since the applicant had not secured employment within the stipulated period of 13 months, the regularisation of the Government quarter in his name is not permissible.

6. The Tribunal by order dated 6.5.1999 had issued a Status Quo order which had been issued till 28.1.2000. The

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learned proxy counsel for the applicants had sought two weeks' time to file rejoinder to the replies filed by the respondents on 8.7.1999 and 8.10.1999. This has, however, not been done by the applicants till date.

7. From perusal of the pleadings and documents on record, the stand taken by the respondents for rejecting the request of the applicants to regularise the aforesaid Government quarter, which had been earlier allotted to late Shri Ram Kripal, cannot be faulted. As explained by them, the regularisation of the quarter allotted to the father was permissible under the Rules provided applicant No. 1 had secured employment within the stipulated period of 12 months plus 1 month at the most. This has not been done. The contention of the applicant that he has secured the job on 5.2.1997 is not supported by any document on record as he himself has stated that he joined the office of the Ministry of Finance on 23.5.1997 only. His allegation that the delay in securing the appointment on compassionate grounds has occurred mainly due to administrative reasons/office procedure and hence the Rules for allotment/regularisation of Government quarter should be interpreted in his favour based on fair play and equity, cannot be accepted de hors the relevant Rules and instructions. In LIC of India Vs. Mrs. Asha Ramachandra Ambedkar & Anr. (JT 1994(2) SC 183), the Hon'ble Supreme Court has held as follows:

"...The Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however hard the case may be, it should never be done. Further it is well settled in law that no mandamus will be issued directing to do a thing forbidden by law...It is true that there may be pitiable situations but on the score, the statutory provisions cannot be put aside".

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8. The aforesaid judgement of the Supreme Court is fully applicable to the facts in this case. The applicants' claim for regularisation of the Government quarter, in question in the name of applicant No. 1 being contrary to the Rules and instructions issued by Respondents 1-3 on the subject, has to be accordingly rejected. The action of the respondents cannot also be considered to be illegal or arbitrary justifying any interference in the matter. In the circumstances, the interim order dated 6.5.1999 stands vacated.

9. In the result, O.A. fails and is accordingly dismissed. However, in the facts and circumstances of the case, the applicants are allowed to remain in the aforesaid quarter for a period of six weeks from today and they shall hand over the vacant possession of the quarter to the competent authority/ Respondents 1-3 on or before 10.5.2000. No order as to costs.

10. Let a copy of this order be issued urgently to both the parties.

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

'SRD'