

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 1271/98

New Delhi this the 22 Day of July 1998

Hon'ble Shri R.K. Ahooja, Member (AS)

1. Ram Narain,  
Son of Shri Singeshwar Rai,  
Resident of Qr. No. I-215(N)  
Pusa Campus,  
New Delhi-110 012.

Retired as Beldar  
Supporting Staff Grade III  
I.A.R.I,  
New Delhi.

2. Vijay Kumar  
S/o Shri Ram Narain,  
Resident of Qr. No. I-215(N)  
Pusa Campus,  
New Delhi

Employed as  
Beldar (Supporting Staff Grade I)  
I.A.R.I,  
New Delhi.

(By Advocate: Shri B.B. Raval and  
Shri Narendra Rawal)

Vs

1. Indian Council of Agricultural Research  
Through the Director General,  
Krishi Bhawan,  
New Delhi
2. The Director,  
Indian Agricultural Research Institute,  
Pusa,  
New Delhi-110 012.
3. The Estate Officer,  
Department of Agricultural Research & Education,  
Ministry of Agriculture,  
Krishi Bhawan,  
New Delhi-110 001.

Respondents

ORDER:

The Applicant No. 1 retired as Supporting Staff  
Grade III from the Indian Agricultural Research Institute  
(IARI) on 30.6.1997 on attaining the age of  
superannuation. During his service he was allotted  
Quarter No. I-215(N) Pusa Campus, New Delhi-110 012 and

was permitted to retain the same for four months after his retirement. His son, Applicant No. 2, was first engaged as daily rate labour with IARI on 6.11.1986 and worked as such for 40 days in 1986. Aggrieved by the fact that he was not taken back in employment though his juniors and freshers were engaged in the meanwhile, Applicant No. 2 filed an O.A. No. 316/95 in company with three others before this Tribunal and the same was disposed of by an order dated 17.10.1996 with direction to the respondents to consider the applicant's case for re-engagement in preference to the outsiders and those with overall lesser length of service subject to availability of work and in accordance with the rules and instructions on the subject and thereafter to consider him for grant of temporary status and regularisation. In compliance of this order, the Applicant No. 2 was re-engaged as a casual labourer with IARI w.e.f. 29.11.1995. Thereafter, he was regularised as a Beldar (Supporting Staff Grade I) on regular basis w.e.f. 31.3.1998.

2. Applicant No. 1, made a representation to Director, IARI, prior to his retirement that as his son Applicant No. 2 had been employed in IARI in 1986 and again in 1995, and was going to be made permanent, the quarter allotted to him should be transferred in the name of the Applicant No. 2. This representation and a similar representation filed on 15.5.1997 by Applicant No. 2 did not meet with a favourable response and a notice for vacation of the quarter was issued by the respondents on 18.11.1997. This was followed on 27.2.1998 by a notice from the Estate Officer asking the

applicant to show cause as to why the order of eviction should not be made. Applicant No. 1 states that he appeared before the Estate Officer on 9.6.1998 when he was made to give in writing under duress that he should be given 2-3 months time to find out an alternate accommodation after which he will be voluntarily vacate the Quarter. Alleging that the respondents have not taken into account the seniority of Applicant No. 2, nor have granted him relaxation accorded to the others similar allottees in the past and also that an undertaking for vacation was obtained under threat, the applicants have now approached the Tribunal praying that the notices issued for eviction from the quarter should be quashed and a direction be issued to the respondents to regularise the allotment in the name of the Applicant No. 2.

3. When the matter was heard on 15.7.1998, I was inclined to dismiss the application straightway as the applicants did not appear to have any case whatsoever, Applicant No. 2 having obtained regular appointment much after the retirement of Applicant No. 1 from IARI. Shri B.B. Rawal, learned counsel of the applicant, however, was persuasive enough by stressing on certain aspects of applicants' case to <sup>make me</sup> reserve the order so that I could take a closer look at it. However, despite considerable thought and consideration given to the matter, I am unable to find anything in favour of the applicant.

4. I shall now proceed to deal with the grounds taken by Shri Raval in his argument. Learned counsel first contended that the applicant No. 2 was engaged as

a casual labour through the Employment Exchange as far back as in 1986. His services were, however, dispensed with after only 40 days allegedly keeping his juniors in employment. Various representatijons made by the applicant for his re-engagement having failed to secure a favourable result, Applicant No. 2 in conjunction with three others, was compelled to approach this Tribunal and was then re-engaged in November 1995. His juniors were, however, regularised in 1995 itself but Applicant No. 2 was given this status only in 1998. Shri Raval urged that the very principle on which the Tribunal ordered the re-engagement of the applicant would require that the regularisation of the Applicant No. 2 should be treated as of 1995 or earlier when his juniors were regularised and since his father retired only in 1997, in justice and equity, applicant No. 2 should be treated as entitled to regularisation of the accommodation in question. This argument, however, cannot be accepted for two reasons. Firstly, applicant No. 2 in any case waited for nearly nine years between, 1986 to 1995, to press his claim for re-engagement and having slept over his right, if any, he cannot now claim precedence over those who were in consequence service for a longer period. Secondly, Applicant No. 2 cannot claim regularisation unless he has attained temporary status for which he had to put in minimum days of service during the period of one year. Needless to add that regularisation could take place only if a post were available. For these reasons, the argument that Applicant No. 2 had a better claim than those regularised in 1995 and that on this reasoning he should be treated as eligible for the accommodation in question, can not hold water.

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5. Shri Raval then contended that the respondents have given similar concession to others and at least in two cases allotment has been given even when the wards joined service much after the retirement of their fathers. One of these two cases, relating to Shri Katoch who joined in 1982 though his father retired in 1979 and the other concerns Ram Kumar who joined in 1985 while his father retired six months earlier. There is also the case of one Shri Ganga Saran about him. no particulars are given about the date of retirement. Suffice it to say that all these cases are of 1985 and earlier. Not only the cases are more than 10 years old, it is also not stated whether the allotment of the quarters to them were in their own right or by way of adhoc allotment of quarters allotted to their retired parents. Even if it accepted that there was an irregularity in the case of these persons, the applicant cannot demand regular allotment on the plea of equity.

6. Finally, Shri Raval also cited a number of cases where relaxation of the rules was permitted by the respondents and urged that in the facts and circumstances of the case, the respondents should have allowed similar relaxation in respect of Applicant No. 2. Relaxation of rules where permissible is the prerogative of the competent authority and no direction can be given by the Tribunal to exercise such a discretionary power in favour of a particular person.

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7. In sum and substance, no case has been made out for the applicants. The OA is devoid of merit and is accordingly dismissed. There is no order as to costs.

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*R.K. Ahooja*  
(R.K. Ahooja)  
Member(A)

\*Mittal\*