

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No. 1914/1998 Date of Decision: 16-02-1999

Shri Hari Narain .. APPLICANT

(By Advocate Shri R.N. Singh

versus

Union of India & Ors. .. RESPONDENTS


(By Advocate Shri D.S. Jagotra

CORAM:

~~THE HON'BLE~~

THE HON'BLE SHRI S.P. BISWAS, MEMBER(A)

1. TO BE REFERRED TO THE REPORTER OR NOT? YES
2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER BENCHES OF THE TRIBUNAL?


(S.P. Biswas)
Member (A)

Cases referred:

1. Shiv Sagar Tiwari Vs. U.O.I. (1997(1) SCC 444.
2. Smt. Phoolwati Vs. U.O.I. & Ors. (AIR 1991 SC 469)
3. Smt. Sitabai Devi & Anr. Vs. U.O.I. & Ors.
(DA-2139/95 decided on 12.4.96)
4. Arvind Tiwari Vs. U.O.I. (DA-641/97 decided on 29.7.97)
5. Vinod Naudiyal & Anr. Vs. U.O.I. & Ors. (DA-1832/96
decided on 23.9.97)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1914/98

19

New Delhi this the 16th day of September, 1999...

Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Hari Narain,
S/o late Sh. Babu Lal,
R/o H.No. 1331, Sector-5,
R.K. Puram,
New Delhi-110022. Applicant

(through Sh. R.N. Singh, Advocate)

versus

1. Union of India through
the Secretary,
Ministry of Urban Affairs
and Employment,
Nirman Bhawan,
New Delhi.
2. The Director,
Directorate of Estates,
Nirman Bhawan,
New Delhi.
3. The Estate Officer,
Directorate of Estates,
Nirman Bhawan,
New Delhi.
4. The Director General of Health
Services (DGHS),
Govt. of India,
Nirman Bhawan,
New Delhi. Respondents

(through Sh. D.S. Jagotra, Advocate)

ORDER

Applicant is before us challenging the Annexure A-2 order dated 11.09.98 by which the allotment of Quarter No. 1331 (Type-A), Sector-V, R.K. Puram, New Delhi originally allotted in the name of his father has not only been cancelled but the applicant has been noticed under Public Premises Act 1971 to hand over the vacant position

20

of the quarter within 15 days from the date of issue of the order dated 11.9.98. Consequently, the applicant has sought relief in terms of issuance of directions to respondents to regularise the said quarter in his name pursuant to the offer of appointment on compassionate grounds.

2. The main plank of applicant's attack is that he has obtained the offer of appointment on 02.06.97 after his father was declared medically invalid on 30.06.95. As per the learned counsel for the applicant his case for regularisation of the Government quarter in his name is covered under the instructions of the Government of India O.M. No. 12035(14)/82-Pol II (b) 22.5.1996. That apart, the applicant would place reliance on the orders of this Tribunal in the following cases:-

1. AIR 1991 SC 469 Smt. Phoolwati Vs. U.O.I. & Ors.
2. OA-2139/95 decided on 12.04.96 Mrs. Sitabai Devi & Anr. Vs. U.O.I. & Ors.
3. OA-641/97 decided on 29.07.97 Arvind Tiwari Vs. U.O.I.
4. OA-1832/96 decided on 23.9.97 Vinod Naudiyal & Anr. Vs. U.O.I. & Ors.

The applicant would also argue that decisions in the aforesaid cases support his claim of regularisation under the rules since the

✓ applicant as Safaiwala, is also eligible for special allotment of Type-A quarter in his name for being a Scheduled Caste employee. (21)

3. The respondents have opposed the claim.

✓ The only basis on which applicant's claim for regularisation has been rejected by the respondents is that he did not get the offer of appointment within one year from the date invalidation as provided by the instructions issued by Respondent No.1. In the instant case, as per respondents, the applicant's father got invalidated in June 1995 where ^{AD} the appointment was obtained after a passage of almost two years in June 1997. Having received the appointment after a delay of almost about 11 months, the applicant has no case for regularisation in terms of existing instructions on the subject.

4. The position of law/rules in this case is now well settled following the judgement of the Apex Court in the case of Shiv Sagar Tiwari Vs. U.O.I. (1997(1) SCC 444. The Government of India vide its order dated 19.11.98 in O.M.No. 12035/4/98-Pol II. has since issued revised guidelines which stipulate the following:-

2. "In the event of death of the allottee, in terms of the Dte. of Estates OM No.12035/4/98-Pol.II dated

22

9.6.98, the family is now eligible to retain the Govt. accommodation for a period of two years, on payment of normal rate of licence fee, subject to the condition that extended period of one year is not admissible in cases where the deceased officer, or his/her dependent owns a house at the place of posting. In view of this and the extreme hardships being faced by the family of the deceased officers the matter has been considered and it has now been decided that the ward/spouse may be allotted Govt. accommodation on adhoc basis in cases where the eligible dependent secured employment within a period of two years from the date of death of the allottee, subject to fulfillment of other prescribed conditions including that of not being a house owner. No relaxation beyond a period of two years shall be permissible in any case."

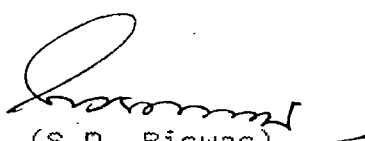
I find that the respondents have not taken this aspect into consideration. Nor do the respondents deny applicability of the principles of compassionate appointment and/or ad hoc allotment in the name of ward/spouse of the Government servant who get invalidated within the permissible time limit as applicable to those who die in harness.

5. The learned counsel for the respondents conceded that the respondents have rejected the applicant's claim strictly on the basis of instructions available on the subject prior to 19.11.98, though the counter has been filed on 23.02.99 and that too without considering the applicant's additional ground for consideration because of belonging to SC community. I also find that the respondents did make a commitment as regards offer of appointment within 12 months, though the actual date of appointment was 2.6.97. This was within two years.

23

6. In the light of the position as aforesaid, the O.A. deserves to be allowed and I do so accordingly with the directions as hereunder:-

- (a) The applicant's case for regularisation of Quarter No. 1331, Type-A, Sector-V, R.K. Puram, New Delhi shall be reconsidered taking into account the applicant's claim as belonging to SC community.
- (b) The regularisation if considered favourably shall, however, be subject to the payment of rental liabilities, if at all due, from the original allottee.
- (c) The respondents shall take a decision in the matter of applicant's claim for regularisation of allotment of the aforesaid quarter on grounds of "Reservations" as well as the latest instructions under O.M. dated 19.11.98. within a period of 8 weeks from the date of issue of the order and communicate the same to the applicant accordingly.
- (d) No costs.


(S.P. Biswas)
Member (A)

/vv/