

Central Administrative Tribunal, Principal Bench

Original Application No. 2273 of 1998

New Delhi, this the 9th day of August, 2000

Hon'ble Mr.V.K.Majotra, Member (Admnv)

1. Shri Harvinder Kumar, S/o late Shri Anant Ram, R/o XY-36, Sarojini Nagar, New Delhi. Working as L.D.C. and presently posted at : Recruitment Directorate, A.G's Branch, M/o Defence, West Block-III, Sector-I, R.K.Puram, New Delhi-66.
2. Mrs. Pritam Kaur, W/o late Shri Anant Ram, R/o XY-36, Sarojini Nagar, New Delhi. -Applicants

(By Advocate Shri R.N.Singh)

Versus

1. Union of India, M/o Urban Affairs & Employment, Nirman Bhawan, New Delhi-11 (Through : The Secretary).
2. The Director, Directorate of Estate, Nirman Bhawan, New Delhi.
3. The Estate Officer, Directorate of Estate, Nirman Bhawan, New Delhi.
4. Ministry of Defence, Govt. of India, South Block, New Delhi (Through: The Secretary).
5. Joint Secretary (Admn.)-Cum-CAO, Ministry of Defence, C-2, Hutments, Dalhousie Road, New Delhi. - Respondents

(By Advocate Shri S.M.Arif)

O R D E R

The applicants have challenged the following:-

- (i) order dated 24.4.1998 (Annexure-A-1) whereby allotment of Government accommodation bearing no.XY-36, Sarojini Nagar, New Delhi (Type-D) in the name of late Shri Anant Ram, father of applicant 1, has been cancelled;
- (ii) show cause notice dated 14.5.1998 (Annexure-A-2) under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 issued by respondent 3 against the family of late Shri Anant Ram including the applicants thereby initiating fresh eviction proceedings;
- (iii) demand letter dated 11.8.1998 (Annexure-A-3) issued by respondent 2 calling late Shri

Anant Ram and the members of his family to pay dues and demands for over stay in the said Government premises; (iv) inaction of the respondents in not making adhoc allotment of Type-B Government accommodation in the name of applicant 1.

2. The father of applicant 1 while serving in the Ministry of Defence was allotted a Type-D (Type-IV) accommodation bearing No.XY-36 Sarojini Nagar, New Delhi from the general pool by respondent 2. He was to superannuate from Government service with effect from 31.12.1996. The respondents cancelled the allotment of the said house with effect from 1.5.1997 after allowing concessional period of four months under the rules after the date of superannuation. However, applicant 1 made application for adhoc allotment/ regularisation of Government accommodation in his name on 20.3.1998. According to applicant 1 his father expired on 1.12.1994 and his case for appointment as LDC (a Group 'C' post) could be finalized only on 9.3.1998 due to various complications and after the applicant had to approach the Tribunal for a direction to the respondents to arrange for a medical examination of applicant no.1 for appointment in Government service. According to applicant 1 he is entitled to adhoc allotment of Type-B Government accommodation in place of the present Type-D accommodation which is presently in possession of the applicants. According to applicant 1 the respondents have not acted upon his application for adhoc allotment of a suitable Type-B Government accommodation in his favour and have decided to issue the impugned orders. According to the applicants the allotment of Government

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accommodation on compassionate grounds in such matters can be considered 12/13 months after the due date. The applicants have sought declaration that applicant 1 is entitled for allotment of a suitable Government accommodation Type-B in lieu of the present Type-D Government accommodation earlier allotted in the name of his father late Shri Anant Ram and that he and the other members of the family of late Shri Anant Ram should be allowed to retain the said Type-D Government accommodation on payment of normal licence fees till allotment of a suitable Type-B Government accommodation by respondent 2 in the name of applicant 1.

3. The respondents have stated that Shri Anant Ram, father of applicant 1 expired on 1.12.1994. Applicant 1 was appointed in Government service on 9.3.1998 as LDC in the Ministry of Defence. The applicants did not inform the death of the original allottee late Shri Anant Ram till the allotment was cancelled with effect from 1.5.1997 deeming that Shri Anant Ram superannuated on 31.12.1996 and after allowing concessional period of 4 months under the rules. On learning about the death of the original allottee Shri Anant Ram, respondent 2 issued revised cancellation order dated 24.4.1998 in supersession of earlier order dated 17.7.1997, cancelling the allotment of order in question with effect from 1.12.1995, after allowing concessional period of one year on payment of normal licence fees as admissible under the rules. Application dated 20.3.1998 of applicant no.1 for adhoc allotment/regularisation of Govt. accommodation was made after three and half years of the death of his father Shri Anant Ram. According to the relevant instructions dated

13.7.1981 (Annexure-R-5) the Government accommodation can be regularised on adhoc basis and that too one type below the entitlement in favour of eligible dependent/ward, if he/she is employed in Government service on the date of the death of the original allottee. The request for adhoc allotment in a case like the present one can be considered if the appointment is secured by a dependent of the deceased within a period of 12 months after the death of the Government servant. In the present case according to the respondents there has been a gap of more than three years between the death of the Government employee and appointment of applicant 1. Thus, the family has been in unauthorised occupation of public premises with effect from 1.12.1995 i.e. 12 months after the death of the Government servant.

4. I have heard the learned counsel of the parties and carefully considered the material on record. According to the learned counsel of the applicants the appointment of applicant 1 in Government service on compassionate ground was delayed. Vide order dated 6.12.1995 the request for compassionate appointment was rejected on medical grounds. On directions of the Tribunal in OA 2178/96 the applicant was appointed in service on compassionate grounds on 9.3.1998 after he was cleared by a fresh medical examination. According to the learned counsel of the applicants as per SR 317-B-25 the rules have been relaxed for adhoc allotment of Government accommodation to dependents of deceased officers. As per OM dated 13.4.1989 "[C]ases where eligible dependent secures employment after a period of twelve months from the date of death of the parent and

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where adhoc allotment may be justified on extreme compassionate grounds, the request for such adhoc allotment may be examined on merits of individual case and decision taken under the powers vested in the Govt. to relax the Allotment Rules under SR 318^{7/6}-B-25". Such cases shall require orders of MOS (UD)/UDM". The applicant has also referred to OM dated 19.11.1998 stating that request for adhoc allotment to an eligible dependent is considered in case he gets employment even after the death of the officer provided such appointment is secured within a period of two years after the death of the allottee and the other prescribed conditions are fulfilled.

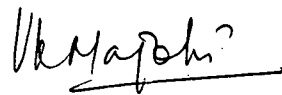
5. However, the benefit of regularisation/ adhoc allotment of Government accommodation has been limited to cases where the period of two years has not expired as on 1.6.1998.

6. Basically as per instructions dated 3.3.1987 application for regularisation/ adhoc allotment have to be submitted within 30 days of the death of the Government servant. In the present case applicant 1 was not in Government service when the original allottee Shri Anant Ram superannuated. An inference can be drawn that even in the case of a family member seeking employment in Government service on compassionate grounds ^{he} should also inform the Government regarding retention of the Government accommodation and in case he is able to secure employment within a period of 12 months of the death, his application can be considered by the respondents for adhoc allotment/ regularisation. The applicants did not inform about the death of Shri Anant Ram the original allottee. The plea that the

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respondents should have made enquiries why the house tariff was not being paid is not acceptable. The period of 12 months in the case of the applicant can be extended with the approval of the Minister-incharge in relaxation of the provision of the allotment rules in terms of OM dated 13.4.1989. However, the applicants had not applied for allotment and had not disclosed the fact of the death of the original allottee for a period of three and half years. Vide OM dated 22.5.1996 it was directed that no relaxation beyond a period of one month beyond 12 months shall be permissible in any case. ~~The~~ instructions contained in OM of 19.11.1998 are not applicable to the case of the applicant as his father died on 1.12.1994 and he was not able to secure employment within a period of 13 months of the same. The applicant had not made any application till March, 1998. There are no instructions provided for as much relaxation as has been solicited in the present case. The applicant could not secure the Government employment within the stipulated period of 13 months when he could apply for regularisation/ adhoc allotment of Government accommodation allotted in the name of the deceased Government servant.

7. In the facts and circumstances of the case, the applicants are not entitled to any relief in the present O.A. Accordingly, the O.A. is dismissed, however, without any order as to costs.



(V.K. Majotra)
Member (Admnv)

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