

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-389/1998

(27)

New Delhi this the 13th day of September, 2006.

HON'BLE MRS. CHITRA CHOPRA, MEMBER(A)

1. Janki Devi Joshi & Another,
D/o KHYALI Ram Joshi,
Lower Division Clerk,
Election Commission of India,
Nirvachan Sadan, Ashok Road,
New Delhi
2. Khyali Ram Joshi, Asstt. (Retd),
S/o Late Dev Ram Joshi,
M/o Home Affairs,
New Delhi-110001.
Both residents of Sec. V, 721,
Pushp Vihar,
New Delhi.

(By Advocate: Shri S.N. Anand)

...Applicants

VERSUS

Union of India, through

1. The Director of Estate,
Directorate of Estates,
4th Floor, 'C' Wing,
Nirman Bhawan,
New Delhi.
2. The Estate Officer,
Directorate of Estates,
4th Floor, 'C' Wing,
Nirman Bhavan,
New Delhi.

(By Advocate: Shri R.N. Singh)

.....Respondents.

ORDER

The applicants had filed this OA in this Tribunal which was dismissed by the Tribunal vide order dated 6.11.1998. Against this order, the applicants went in Civil Misc. Writ Petition No. 6219/98

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before the Hon'ble Delhi High Court. Vide order 27.3.2006 the Delhi High Court have remanded the matter back with the following observations:

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"In view of the above, we allow the present Writ Petition to the extent indicated above and remand the matter back to the learned Tribunal to decide the issues and the controversy afresh and give its findings on various aspects. However, it is clarified that nothing said in this judgment shall be construed as any opinion expressed on merits by this Court on the aspects that have been remanded back to the learned Tribunal."

2. Applicant No.1 Km. Janki Devi Joshi claims regularisation of the Government accommodation allotted to her father on the basis that she had been working as Lower Division Clerk (LDC) in the Election Commission of India w.e.f. 1.4.1996. Her grievance was that her application for such regularisation had been rejected even though she fulfils all the required conditions.

3. In the present OA, the following reliefs have been sought by the applicants:-

"(I) That suitable directions may please be issued to the respondents to regularize the allotment of Government quarter No. Sector-V/721, M.B. Road, Pushp Vihar, New Delhi in the name of the first applicant from the date of cancellation of allotment in the name of the second applicant i.e. with effect from 1.6.1997.

(II) That the impugned rejection letter dated 6.5.1997 and impugned eviction proceedings and final order on the basis of notice dated 29.12.1997 may also please be quashed and set aside."

4. Briefly the facts of the case are as under:-

(i) Applicant No.1 Km. Janki Devi Joshi is in Government service under the Election Commission of India since 1.4.1996

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as an LDC and had been sharing the above residence with her father since the date of allotment. She had not been drawing any House Rent Allowance since 1.7.1996. She is also entitled for a Type "B" accommodation and submitted her application to the Directorate of Estates for regularisation of allotment of the above said residence in her name as per her application dated 9.4.1997. Her application was, however, rejected by the Directorate of Estates vide letter dated 6.5.1997 (Annexure A-1). Despite her representation and appearing before the Estate Officer, she was also issued eviction notice by the Directorate of Estates dated 29.12.1997 (Annexure A-2).

5. After hearing, this Tribunal dismissed the OA vide order dated 6.11.1998 and did not uphold the claim of the applicant for allotment/regularisation of Govt. quarter. Learned counsel for the applicant Shri S.N.Anand vehemently contended that the applicant No.1 being entitled for Govt. accommodation, there was no reason why it should not be regularised in her favour.

6. In the counter affidavit, learned counsel for the respondents Shri R.N.Singh has strongly refuted the claim of the applicant and has made the following submissions:

(i) In the first instance, the OA is not maintainable as the Tribunal does not have the jurisdiction to deal with the matter of allotment of Govt. accommodation as this is not a condition of service. He emphatically submitted that the allotment of accommodation does not fall within the parameter of conditions of service and, therefore, the Tribunal has no jurisdiction to deal with this matter. When the earlier

order was passed by this Tribunal, no such objection was put forth before the Bench.

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7. Learned counsel for the respondents also drew attention to the fact that the Estate Officers are appointed by the Central Govt. under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the issue of notice to show cause against order of eviction is issued under section 4 of the said Act. It is in terms of this provision that a show cause notice dated 29.12.1997 (Annexure A-2) was issued to the applicant. He submitted that because the matter relates to the allotment/regularisation and or eviction from Govt. accommodation, it is maintainable only under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Consequently this Tribunal is not the appropriate forum to adjudicate the matter.

8. Learned counsel in support of his contention has placed reliance on Union of India Vs. Sh. Rasila Ram & Ors. (JT 2000 (10) SC

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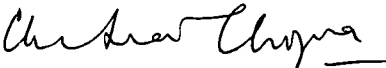
wherein it has been held :

"Sections 3(q) and 33-Public Premises (Eviction of Unauthorised Occupants) Act, 1971-Administrative Tribunal-Jurisdiction- "Service matters'- If it includes eviction of unauthorized occupant of Government flat under the Public Premises Act, 1971. Held, Administrative Tribunals have no jurisdiction to go into the legality of the order passed by a competent authority under the Public Premises Act of 1971 Act. Tribunal's order holding that an order passed by the competent authority under the 1971 Act would also come within its jurisdiction, therefore, invalid and without jurisdiction Order accordingly set aside"

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9. Thus, in view of the legal position as clearly laid down by the Hon'ble Supreme Court, this Tribunal has no jurisdiction to hear and deal with this OA. It would not, therefore, be appropriate to examine and go into the merit of the case as ruled by the Apex Court. The applicant may agitate her grievance before the appropriate forum.

10. With the above observation, the OA is disposed off. The applicants may agitate their grievance in the appropriate forum.


(CHITRA CHOPRA)
MEMBER(A)

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