

Central Administrative Tribunal: Principal Bench

(9)

OA No.1372/95

New Delhi, this the 7th day of June, 1996.

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

1. Shri Phool Singh
S/o Late Sh. Kisan Singh
Quarter No. E-22,
Kidwai Nagar, New Delhi.

2. Shri Um Pal
S/o Sh. Phool Singh
Quarter No. E-22
Kidwai Nagar,
New Delhi.

Applicants

(Advocate: Sh. Ajay Kumar)

versus

1. The Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. The Director of Estates,
Nirman Bhawan,
New Delhi.

3. Mr. A. Baines
Estate Officer
Directorate of Estates,
Nirman Bhawan,
New Delhi.

Respondents

(Advocate: Sh. B. Lal)

ORDER

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

The applicant No.1 Shri Phool Singh
at the time of his retirement from Income-tax
Department was residing in Govt. quarter

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10

No. E-22, Kidwai Nagar, New Delhi. The son of the applicant No.1 who is applicant No.2 ^{and also} is an employee of the Income-tax Department made an application for regularisation of Govt. accommodation in his name after the retirement of his father.

2. The applicant No.2 has stated that he is staying with his father for a period of three years prior to the latter's retirement and he had not claimed the HRA and also made an application in proper form.

He also satisfied the condition ~~of not owning a house.~~ Despite this the respondents rejected his application and issued a notice for eviction.

3. The respondents however stated that the applicant no.2 Shri Um Pal did not fulfil the conditions laid down for regularisation of Govt. accommodation occupied by the retiring Govt. servants. They submit that as per their enquiries the applicant No.2 was not residing continuously with the Govt. servant for three years immediately preceding the date of his father's retirement. Further more the applicant No.2 had drawn the HRA and it was only after 7.5.92 ^{that} he requested the DDO to deduct the arrears of HRA from his pay for the period from 1.1.91 to 31.3.92 so that he could become eligible for the allotment of accommodation.

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4. When the matter came up for hearing on 7.5.96, the following order was recorded.

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After arguing for sometime, the 1st. counsel for the applicant prays for sometime to produce sufficient proof of his residing with his father at the residence in Kidwai Nagar from 1.1.91. List on 31.5.96."

Today when the matter came up for final hearing, the 1st. counsel for the applicant submitted that he was unable to produce any additional documents in proof of his residence with his father. He submitted that he could not do so as no return got card had been/prepared by the father of ^{On} the applicant No. 2. He submitted, however that the documents submitted along with ^{On} were sufficient to establish the factum of joint residence for the required period. In this context he drew attention to the copy of the letter dated 24.4.95 from the office of DDC, Income-tax, Range-4, New Delhi which states that the applicant had informed his office on 7.5.92 that he had changed his address to E-22, Kidwai Nagar and also that he was sharing the accommodation with his father w.e.f. 1.1.91. Further more this address had also been entered in the record of ^{On} his parent office, and his identity card, ^{On} photo-copy of which has been annexed

12

to the OA. The copy of the Nation Card No.307162 issued on 27.1.93 also establishes that he was staying at the same address and the address given in the electoral roll was also the same.

5. I have perused the documents mentioned by the / . counsel and find that they do not establish the case of the applicant. The applicant No.1 retired on 30.6.94. Thus the applicant no.2 was required to establish his continuous residence with his father at least from 30.6.91. I find that he informed his office about his change of address only on 7.5.92. It is also admitted that he continued to receive the HRA upto 31.3.92 and only thereafter he sought refund of HRA from 1.1.91 onwards. The copy produced of the Identity Card/issued to him on 21.4.94 and the copy of the ration card/issued on 27.1.93 . All this clearly indicate that/attempt due has been made much later than the date to show his continuous residence for the required period to make him eligible for allotment of accommodation on the retirement of his father. The 1d. counsel for the applicant sought to argue that the applicant No.2 had received the HRA after 1992 since being low paid employee he did not understand the implication and as soon as he came to know he ~~would not receive~~ the HRA while sharing the house with his father 02

(13)

he immediately took steps to refund the HRA. We need not look at the cause or reasons for claiming the HRA but the fact is that the HRA was claimed and received. It has also been mentioned in the application form that the persons who claim the HRA and subsequently refund it are not entitled to this concession. Thus the fact of having drawn the HRA coupled with the ~~failure~~ ¹² to prove by way of ration card ~~to show~~ ¹² that the applicant was residing with his father during the relevant period take away the very foundation of the claim of the applicant that he was residing with his father for a period of three years prior to the date of retirement of his father. None of the documents annexed to the OA go to prove the case to be otherwise. In view of this no fault can be found with the respondents for rejecting the claim ^{of the} ¹² / applicant.

6. ¹² In the light of the above discussion, the application is dismissed. There shall be no order as to costs.

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(R.K. Bhooja)
Member (A)