

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1637 of 1995

New Delhi this the 29th day of August, 1996

**HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)**

1. Shri Vinod Kumar  
S/o Late Shri Shis Ram  
R/o Staff Quarter No.42/80 Type-I,  
Maulana Azad Medical College,  
New Delhi. ....Applicant

By Advocate Shri Ajay Malviya

Versus

Government of N.C.T. of Delhi - through

1. The Secretary (Medical)  
5, Sham Nath Marg,  
Delhi.

2. PHX-Cum-Joint Secretary (M II).  
(Estate Cell),  
1, Jawahar Lal Nehru Marg,  
New Delhi.

3. The Medical Superintendent,  
L.N.J.P. Hospital,  
New Delhi. ....Respondents

By Advocate Shri Arun Bhardwaj

**ORDER (ORAL)**

The applicant was appointed on compassionate grounds as Khidamatgar (Group 'D' employee) on the death of his father in harness. The applicant's father died on 15.10.1993. The applicant applied for compassionate appointment on 7.5.1994 when the respondents initially considered him for appointment as LDC, which was offered to him on

28.11.1994 but the applicant did not accept this offer as he feared that he did not have the type test qualification. Ultimately, he was appointed on the above post on 6.7.1995. The present application is about the regularisation of the accommodation which was originally allotted to his father.

2. The applicant's main ground is that it was not due to his failure that he had not secured his appointment within 12 months from the date of his father's demise. He also contends that in few other similar cases, the respondents have allowed regularisation in respect of those appointees appointed on compassionate grounds even though, they were appointed after the 12 months after the death of their fathers and, therefore, claims that similar benefits should also be given to the applicant in this case.

3. The respondents have resisted this application and they have pointed out that under the rules where the appointment is not made within 12 months from the date of death of the father, the applicant cannot be considered for regularisation. Under the instructions, regularisation is permitted only in cases where the applicants have secured some appointment within 12 months from the date of the death/medical ~~examination~~ <sup>invalidation</sup> of the father.

In this particular case as the applicant was appointed after one year and ten months, the respondents could not regularised the accommodation in his name. The respondents claim that the applicant has no legal right to claim regularisation in accordance with the provisions of the rules.

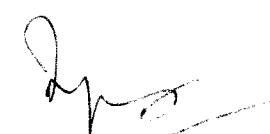
3. I have heard the learned counsel for the parties and have perused the record.

4. It is an admitted position that the applicant secured a Government appointment only after the expiry of 12 months. The extant rules provide for consideration for regularisation of accommodation only if the appointment is made within 12 months. Therefore, the action of the respondents in not regularising the accommodation in favour of the applicant, cannot be faulted. The whole idea of prescribing a 12-month period for regularisation of the accommodation is quite logical with the existing rule, which permits, that in the extreme case of death of an employee, the normal period of retention of the accommodation is also 12 months and within the period of retention allowed if a dependent seeks and gets employment, this accommodation could be regularised in his favour according to his entitlement. Such being a case, the fact that the applicant unfortunately did not secure Government employment within this period,

is standing in his way and the respondents' action cannot be said to be illegal. The fact that in some other cases, the respondents have allowed regularisation, does not help the applicant's case. If in other cases some irregular order had been passed the applicant cannot claim that the same irregular order should be passed in his case also.

5. The learned counsel for the applicant submits that at least the applicant should be given some relief by directing the respondents to deduct the standard licence fee. The respondents may consider the representation <sup>on this,</sup> ~~pass suitable order in this behalf.~~ and when made by the applicant, sympathetically considering the fact that the applicant has been appointed on compassionate grounds. The representation may be made within a period of 15 days from the date of receipt of a copy of this order.

6. In the conspectus of the above discussion, this application is devoid of merit and is dismissed. No costs.

  
(K. MUTHKUMAR)  
MEMBER (A)

RKS