

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.1991/95

New Delhi, this the 12th day of February, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri Rajender Kumar,
s/o late Shri Harphool Singh, APD
L.D.C.
Ministry of Urban Development,
CPWD Air Conditioning Division(I)
Vidut Bhawan, Cannaught Circus,
New Delhi.

.. Applicant

By Advocate: Shri D.R. Gupta

Vs.

1. Directorate of Estates,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
2. The Executive Engineer,
CPWD, Air Conditioning Div.No.(I),
Vidut Bhawan,
Cannaught Bhawan,
New Delhi.

.. Respondents

By Advocate: Shri M.K. Gupta

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicant, ~~who~~^{he} joined the post of LDC
by virtue of the order passed on compassionate grounds
on the death of his father on 16.5.90¹³ has filed this
application seeking a direction to Respondent No.1 to
to consider his request for making ad hoc allotment of

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government accommodation of the eligible type on compassionate grounds in accordance with the OM dated 13.4.89 (Annexure A-3). The applicant submits that he has been discriminated inasmuch as other persons have been considered by the respondents for ad hoc allotment even though they have been appointed one year after the death of the employee on compassionate grounds as in the case of the applicant. In the circumstances he has sought ~~the~~ direction referred to above from the Tribunal to the respondents to consider his case on merits. He has also submitted that the delay, if any, may be condoned since his application for ad hoc allotment of quarter has been pending without a reply from the respondents since June 1990 and also because he belongs to S.C. community and, therefore, deserves sympathetic consideration.

2. The brief facts of the case are that the applicant's father died in harness as APO on 30.12.88. By the order dated 28.3.90 the applicant was offered the appointment on compassionate grounds which he accepted as LDC on 16.5.90. It is also an admitted fact that the applicant was evicted from the quarter which was allotted to the deceased father on 20.9.90. A court order staying his eviction has been vacated with effect from 30.4.90.

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3. The learned Counsel for the applicant, Shri D.R. Gupta submits that he had filed an application to the respondents requesting to regularise his quarter No.S-I/1207, R.K. Puram, New Delhi, which has been allotted to his late father vide application dated 3.7.90. Prior to this date he has also addressed the Minister for doing the needful and relaxing the rules in respect of regularisation of the quarter on 26.4.90. The learned counsel for the applicant submits that no reply has been given by the respondents to his representations. Finally by application dated 25.8.95 the applicant had also submitted another application in the required proforma which is also pending with the respondents.

4. The applicant has also filed MA 361/96 under section 21 of the A.T. Act, 1985 for condonation of delay. His submission is that the grievance of the applicant is a continuous cause of action, ^{there is} ~~and~~ therefore no question of limitation, ^{as} ~~he~~ is asking for a prospective action to be taken by the respondents in accordance with their policy and past conduct, whereby the respondents have been ~~relaxing~~ relaxing the condition regarding 12 months period within which the person has to be appointed on compassionate grounds on the death of the deceased government employee. He refers to the recent decision of the Supreme Court in the case of S.S. Tiwari in which he submits that an

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undertaking had been given by the respondents that if the applicants made such requests this would be considered on merits and thereafter their allotments regularised, if found fit.

5. Shri D.R. Gupta, learned counsel for the applicant also relies on the judgements of this Tribunal - Smt. Pushpa Aggarwal Vs. UOI and ors (1(1993) GS(CAT)3(PB), Miss Rukmani Kumar Vs. Estate Officer, O.A.No.2137/93 decided on 20.1.94 and Shri Bijendra Singh Vs. UOI and ors, O.A.No.237/95 decided on 21.12.95.

6. The respondents have filed a reply denying the above averments. They have taken a preliminary objection that the application is barred by limitation and that he ^{is} estopped from challenging his eviction from the government accommodation as the order of eviction has been passed on 20.9.90. They further submit that the applicant has not applied for regularisation of the government accommodation in the prescribed form before his eviction on 20.9.90. They, therefore, submit that as per the allotment rules SR FR 317-B/25 no such directions can be given to the respondents to relax the rules as they are not the competent authority. Shri M.K. Gupta, learned counsel on behalf of respondents has submitted that

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the applications made by the applicant on 3.7.90 and 26.4.90 were made prior to this eviction and ~~they~~ were not also in proper form. After the eviction order has been passed he can only apply for fresh allotment of the quarter in his turn taking his appointment date from 1990. He further submits that the OA itself has been filed on 10.10.95 without challenging the eviction order dated 20.9.90 and, therefore, the case was clearly barred by limitation.

7. Shri M.K. Gupta, learned counsel for the respondents has also **distinguished** ~~the~~ case of Pushpa Aggarwal (supra). He points out that in that case the Tribunal had taken into account the fact that the petitioner has been staying in the quarter for nearly 8 years after the death of his father on the strength of ^{the} interim order granted in these proceedings which is not the case here, as the applicant has been evicted. He further submits that since the applicant had ^{at 13:} no time filed the application for regularisation of the quarter in proper form at any time before he was evicted, his case cannot be considered under the provisions of the OM dated 13.4.89 which has been relied upon by the learned counsel for the applicant.

8. I have carefully considered the pleadings, arguments of both the learned counsel for the parties and the record.

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9. From the facts narrated above, it is clear that the applicant has been appointed after the period of 12 months from the death of his father on compassionate grounds.

It is also clear that after his appointment till the eviction order on 20.9.90 he had not cared to make the necessary application according to the rules to the respondents requesting them to consider his case favourably and if necessary after relaxation of the rules which he now claims after a period of

5 years. I have considered the application for condonation of delay. The contention of the applicant that his grievance is^a continuing cause of action and, therefore, there is no bar of limitation cannot be accepted. Learned counsel for the applicant had submitted that he had made several representations. It is well settled law (see S.S. Rathore Vs. State of M.P. - AIR 1990 SC 10) that repeated unsuccessful representations not provided by law do not enlarge the period of limitation.

The learned counsel for the applicant had submitted that even if there was some delay, the matter should be looked at sympathetically and the power to relax the rules under section 21 of the A.T. Act should be exercised, as the applicant is a S.C. employee and therefore needs sympathy. The applicant has already secured appointment on compassionate grounds. The grounds for condonation of delay

of / taken in the application do not disclose any sufficient

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reason for condoning the delay of more than 4 years when he has filed this application seeking a direction to the respondents to consider his case under OM dated 13.4.89. For the reasons given above, I do not find any sufficient ground to condone the delay in this case or any sufficient reasons to allow this application on merits as no rule or policy has been shown which gives the applicant a right to be allotted such ^{ad hoc} accommodation in his favour.

10. I have seen the judgements relied upon by the learned counsel for the applicant. In Pushpa Aggarwal's case, the petitioner had been continuing to stay in that house for 8 years after the death of the father. In Bijendra Singh case (supra) also, the applicant was continuing to stay in the quarter for which he was seeking regularisation which is not the position in this case. These cases are distinguishable. In the facts and circumstances, there is no merit in this application.

11. However, before parting with this case, the following observations are made. The learned counsel for the applicant has submitted that there is no rule or policy decision barring the applicant from ad hoc allotment after eviction. He has also submitted that in similar cases the respondents have relaxed the rules in favour of the petitioners.

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even if they have vacated the quarter. In view of this, if the applicant makes any representation to the respondents on this ground they may consider the same and pass a reasoned and speaking order.

12. The O.A. fails and is dismissed. No costs.

Lakshmi Swaminathan
(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

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