

Central Administrative Tribunal
Principal Bench

CA 2189/95

8/6

New Delhi, the 11th April, 1996.

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

Shri P. Ankaisr.
R/o S-II/1070, RK Puram
New Delhi.

Applicant

(Advocate: Sh. Gyan Prakash)

versus

1. The Secretary,
Ministry of Urban Development
Nirman Bhawan,
New Delhi.
2. Director of Estates
Govt. of India
Nirman Bhawan,
New Delhi.
3. Superintendent of Police
CBI, SIVIV,
Govt. of India, Samarat Hotel,
6th floor, New Delhi.
4. Director General,
AIR, Parliament Street,
New Delhi. 110001.

... Respondents

(Advocate: Sh. M.M. Sudan)

ORDER (oral)

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

The applicant is working as Safaiwala in CBI since 7.4.93. He states that he has been staying continuously with his father who was working as Farash, in the Govt. quarter allotted to him, at Sector II, Gr.No.1070, RK Puram, New Delhi from the time he joined government service. He fulfills

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all the requirements laid down as per rules for adhoc allotment of Govt. accommodation to the relations of the retiring govt. servant. The above claim is contested by the respondents who state that one of the conditions laid down in the rules for adhoc allotment to the dependents/relations is that they should not claim the house rent after joining service. In the present case the applicant on joining service w.e.f. 7.4.93 has claimed HRA upto 31.8.93. For this reason the applicant is not eligible for the facility of adhoc allotment and the application made for this purpose has been rightly rejected.

2. Shri Gyan Prakash, ld. counsel for the applicant submits that the applicant is an uneducated person and was not aware of the rules and since the CBI had^a different pool from the General Pool earlier, the applicant had no hope of getting allotment under the rules for allotment of houses to dependents. In these circumstances he had claimed HRA but later on realising his mistake he had deposited the money back and also obtained a receipt for the same. Shri Gyan Prakash also submitted that the respondents are not considering the claim of the applicant after HRA amount received by the applicant had been refunded to the authorities^a ^{though} Proof to that effect have been submitted.

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3. I have considered the pleadings on record and the arguments of the ld. counsel on either side. It is an admitted fact that applicant had drawn the HRA from 7.4.93 to 31.8.93. Therefore, he was not entitled to the benefit of govt. accommodation under the rules which is extended to the dependents of the retiring govt. employees. Undoubtedly, the applicant refunded the money on account of HRA and this was done on 19.7.95 when the father of the applicant had retired on 31.3.95. Clearly, the refund of the amount made by the applicant was an afterthought and done even after the retirement of his father. The allotment made in favour of the father had been cancelled on 1.8.95 which was later extended on medical grounds for two months more. The claim of the applicant for the allotment to dependents arose at the time his father retired from service and at that time he ^{had not} refunded the HRA. Even otherwise, the respondents were fully entitled to reject the application on the ground that the applicant did not fulfil the necessary conditions for such an allotment.

4. Shri Madhu Sudan, ld. counsel for the respondents pointed out that in case the applicant claims that he was staying with his father then the claim made by him while getting the HRA

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would not entitle him for such consideration. I also agree with the view of the ld. counsel for the respondents. Having claimed the HRA, the applicant was no longer entitled to the benefit of adhoc allotment under the rules and the fact that he refunded the money after the retirement of his father ~~it~~ does not change the ~~situation~~ ^{or} ~~it~~ ^{As} ~~such~~ there is no reason to interfere with their decision.

5. Shri Gyan Prakash, ld. counsel in this context also submitted that the respondents did not take into account the refunding of the HRA and sought the direction to the respondents that they may consider the case on that basis. Since I have already found that the decision of the respondents was taken on valid ground, there is no justification in giving them any direction that they may further consider the case on the ^{that} basis ^y the HRA had been refunded.

6. In view of the above discussions, the application is dismissed. There shall be no order as to cost.

R.K. Anooja
(R.K. Anooja)
Member (H)