

Central Administrative Tribunal
Principal Bench

CA 2189/95

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New Delhi, the 11th April, 1996.

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

Shri P. Ankaisn ..
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)

JUDGE (oral)

Hon'ble Shri R.K. Ahoja, 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. quarters allotted to him, at Sector II, Qr.No.1070, RK Puram, New Delhi from the time he joined Government service. He fulfills

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ail 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, 1d. counsel for the
applicant submits that the applicant is an un-educated
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 ^{though}. Proof to that effect have been submitted.

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(B)

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} ~~had~~ refunded the H.R.A. 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 ~~position~~ or ~~position~~ 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
basis ~~that~~ 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. Ahuja
(, R.K. Ahuja)
Member (A)