

Central Administrative Tribunal
Principal Bench

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D.A. No. 237/1995

New Delhi, this the 21st day of Dec., 1995

Hon'ble Shri B.K.Singh, Member (A)

Shri Bijendra Singh s/o
Late Shri Kichpal Singh,
Auchandi Village,
Delhi- 110 039.

...Applicant

(By Shri S.R.Gupta, Advocate)

Versus

1. Union of India through
Director of Estates,
Nirman Bhawan,
New Delhi.
2. Director General (Works),
C.P.W.D., Nirman Bhawan,
New Delhi.

...Respondent

(By Shri Arvind Kumar proxy for
Mrs. Pratima K.Gupta, Advocate)

D A D E R (Crl)

By Hon'ble Shri B.K.Singh, Member (A):

This D.A. No. 237/95 has been filed against the order No. LC/438/AOB/Lit/94-B dated 19th January, 1995 issued by the Estate Officer in regard to flat No. 444/5.IX, N.K.Puram, New Delhi in which the applicant was sharing with his father Shri Kichpal Singh, who died in harness on 23.10.1993.

It is admitted by both the parties that the applicant has since been given a compassionate appointment in place of his father and the said quarter also has been regularised in his name. This house was also included in the list of 391 houses under unauthorised occupation. The matter came up for hearing before the

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Hon'ble Supreme Court and the learned Additional Solicitor General Mr. K.T. Tulsi stated before the Hon'ble Supreme Court that the applicant has since been given the job of a Lorry Driver in C.P.W.D. on compassionate grounds and it was further stated that the allotment shall be regularised in the name of Mr. Bijender Singh. The implication of this statement is clear. The allotment which stands in the name of his father is being regularised.

On /, undertaking given by the learned Additional Solicitor General, the Writ was disposed of. The Hon'ble Supreme Court in a similar case of Smt. Sipra Boss and Another v/s UGI, made the following observations on 16.11.1995:-

"We understand that the petitioners are at present occupying the government quarters. They are given two years time to vacate the same unless in the meanwhile the petitioner's son gets employment with the respondents. The respondents will not charge to the petitioner rent in excess of the rent which was being charged when the deceased was in service. The petitioners will clear up the arrears of rent calculated on the above basis. The petitioners shall pay the arrears of rent within four months from today. The Writ Petition is disposed of accordingly."

Learned counsel for the applicant has also referred to the judgement of C.A.T. (Principal Bench) in the matter of Smt. Pushpa Aggarwal v/s UGI & Ors. reported in 1(1993) 63 (CAT) 3 (PB). In both these cases, the heirs of the deceased person were allowed to pay the normal rent for the period of occupation beyond the permissible limit which is stipulated in the rules and instructions issued by the Government. Although this is an observation but the same operates as obiter dicta for courts/Tribunal. This judgement of the Hon'ble Supreme Court has also been followed in case of Smt. Pushpa Aggarwal v/s UGI as stated above.

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In the light of the law laid down by the Principal Bench and also in view of the observations of the Hon'ble Supreme Court, the applicant will be liable to pay only normal rent for the quarter from the date of death of his father to the date of regularisation of that quarter in his name and the same will not be treated as an un-authorised occupation specially in the light of the undertaking given by the learned Additional Solicitor General before the Hon'ble Supreme Court. A perusal of the record also shows that the respondents have been charging only normal rent from the applicant who has been paying the same. The respondents also have not taken recourse to the provision of section 7 of the P.P.E. Act, 1971 before raising the demand of damage rent and since they have been charging normal rent and the same is being paid by the applicant, they are estopped from raising any demand of damage rent now. The respondents are, however, given the liberty to recover any amount of normal licence fee due to them and if any excess amount has been paid by the applicant, the same should be refunded to him within a period of two months from the date of receipt of a copy of this order.

With these observations, the application is disposed of but without any order as to costs.

(B.K. SINGH)
Member (A)

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