

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2397/1995

(5)

New Delhi this the 2nd day of May, 1996.

HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

Sunil Kumar S/O Sohan Lal,
working as L.D.C. in
Naval Headquarters,
Ministry of Defence,
New Delhi and R/O
1745, Laxmi Bai Nagar,
New Delhi.

... Applicant

(By Shri B. Krishan, Advocate)

-Versus-

1. The Director of Estates,
Directorate of Estates,
Ministry of Urban Affairs
& Employment,
Nirman Bhawan, New Delhi.

2. The Estate Officer,
Directorate of Estates,
4th Floor, 'B' Wing,
Nirman Bhawan, New Delhi. ... Respondents

(By Ms. Pratima K. Gupta, Advocate)

ORDER (ORAL)

This application has been filed by Shri Sunil Kumar, an L.D.C. in the Naval Headquarters under the Ministry of Defence against the orders dated 10.10.1993 of the respondents rejecting his request for regularisation of the accommodation which was allotted in the name of his father who was also a Government servant.

2. The applicant's case is that the respondents have not shown any reason except to say that his case is not covered under the rules. In the D.A. the applicant has averred that he fully satisfies the conditions for regularisation inasmuch as being a Government servant, not owning any property on the date of application for regularisation and also

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having shared the accommodation along with his father who has since retired, for the last three years, that is, from 1.3.1990 till 30.9.1993, the date on which his father retired from service, he is fully eligible. According to the applicant, he fulfills all the three essential conditions for regularisation. He is, therefore, aggrieved by this rejection which, according to him, is arbitrary and unwarranted.

3. The respondents have brought out the following facts —

The applicant had informed the respondents by his letter dated 11.8.1994 that prior to 1990 he had temporarily shifted to flat No. 28-A, Janata Flats, Saket and 185/S-II, Noida for studies and that thereafter he had been continuously residing with his father till date. It is also claimed that the said two flats had not been owned by the applicant or by any of his family members, and that he had not drawn any H.R.A. It is stated in the reply that the applicant had also shown that flat No. 185/S-II Noida which was originally owned by him had also been sold out in April, 1992. The only contention of the respondents is that the applicant could not submit any documentary evidence relating to dispossession of the flat at Saket. Learned counsel for the respondents submits that while on the one hand the applicant says that prior to 1990 he had been living in Saket, he is also simultaneously saying that he had been residing with his father till date. Learned counsel for the applicant, however, submits that as per the declaration given by him at the time of seeking

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regularisation of accommodation he had clearly stated that he had been residing with his father from 1.3.1990 onwards. It was only prior to March, 1990, or prior to 25.2.1990 to be precise, he was residing with his grand father at Saket and this information had already been communicated to the respondents by his office by letter dated 19.4.1994 (Annexure A-6). Learned counsel for the applicant argues that there is no other reason that could be held against him.

4. According to the learned counsel for parties, this case has to be dealt with fairly on the basis of the pleadings and the specific averments in the counter reply. It is admitted position that prior to March, 1990 the applicant had been residing with his grand father. The respondents have simply stated that they were not convinced with the documents with regard to the dispossession of flat No.28-A, Saket. They have not said why they were not convinced. except what has been argued by the learned counsel for the respondents that as per the applicant's submission he had been living prior to 1990 with his grand father, Merely an admission that he had been living prior to 1990 with his grand father does not disprove that he had been dispossessed from the Saket flat. There is no suggestion in the counter reply that the Saket flat has been owned by the applicant or by any member of his family. Respondents have also stated that the documents filed by the applicant in respect of the Saket flat were in the name of some other person who according to them could even be a

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tenant. It was open to the respondents to make such verification as was required under law to ascertain the ownership of the Saket flat to get convinced whether the said property was in the name of the applicant or his grand father.

5. Be that as it may, merely on the ground that the applicant had said that he had been residing with his grand father prior to 25.2.1990 in the Saket flat, a conclusion cannot be drawn that he had not been residing with the Government servant, i.e., his father, from 1.3.1990 till date. The respondents have not shown any legal ground which could support the conclusion that the declaration given by the applicant in his application is not convincing enough for them to consider regularisation of that accommodation in favour of the applicant. Besides, the letter rejecting the request for regularisation also does not contain any reasons and also the grounds for such rejection.

6. In the light of the foregoing, the respondents have not been able to establish that the applicant has no claim for regularisation. Accordingly, the Annexure A-1 order dated 10.10.1995 cannot be sustained and the same is hereby quashed. The respondents are directed to re-consider the applicant's application and pass appropriate order thereon within a period of 15 days from the date of receipt of this order and communicate the decision to the applicant. Till such time, no consequential action shall be taken.

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7. With these directions, this application stands disposed of. Liberty to the applicant is reserved, to approach the Tribunal afresh in case of any further grievance. No costs.


(K. Muthukumar)
Member (A)

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