

Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.321/95

New Delhi this the 31st Day of July, 19995.

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

1. Smt. Brij Bala,  
W/o late Sh. Hakumat Rai,  
R/o F-1432, Netaji Nagar,  
New Delhi.

2. Sh. Anil Kumar,  
S/o late Sh. Hakumat Rai,  
R/o F-1432, Netaji Nagar,  
New Delhi.

Applicants

(through Sh. B. Devashekhar, advocate)

versus

1. Union of India,  
through its Secretary,  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.

2. Director (Printing),  
Directorate of Printing,  
Nirman Bhavan,  
New Delhi.

3. Manager,  
Govt. of India Press,  
Minto Road, New Delhi.

4. Assistant Manager(Admn.),  
Govt. of India Press,  
Minto Road, New Delhi.

Respondents

(through Ms. Jasvinder Kaur, proxy counsel for  
Mrs. Pratima K. Gupta, advocate)

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A.No.321/95 has been filed for quashing the memo dated 1.1.92 whereby the applicant No.1 was informed that there was no vacancy for the post of Machine Assistant against which her younger son applicant No.2 could be appointed on compassionate ground in place of his father Sh. Hakumat Rai. Applicant No.1 is the wife of Sh. Hakumat Rao and applicant No.2 is the son. The applicants aggrieved by

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this decision of the respondents had filed another O.A.No.980/92 which was disposed of by this Hon'ble Tribunal vide its judgement dated 16.02.93. The operative part of that judgement is reproduced below:-

"In view of the above facts and circumstances the present application is disposed of with the direction that the respondents shall comply with the list of deserving cases of compassionate appointment and further that the family of the deceased employee is allowed only 2 years time to vacate quarter No.1432, Netaji Nagar, New Delhi unless in the meanwhile applicant No.2 gets employment with the respondents. It is further directed that the respondents shall recover only normal licence fee from the applicant/legal representative of the deceased who shall also pay the arrears of rent within 4 months from today. No costs."

The respondents have complied with these orders and have prepared a panel for compassionate appointment and they have stated that the applicant would be appointed in his own turn. It was further pointed out that the applicant has got all the retiral benefits and in the light of the latest decision of the Hon'ble Supreme Court in case of Life Insurance Corporation of India Vs. Mrs. Asha Ramchander and Umesh Kumar Nagpal Vs. State of Haryana, the applicant although not entitled to compassionate appointment in view of the fact that the widow has got substantial amount in the form of retiral benefits and also owns a house in Delhi No.D-18, Nav Rachana, East Arjun Nagar, New Delhi which was in the name of the husband of applicant No.1 and father of applicant No.2, the case is still under consideration. The decision of the

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court was to allow the family to continue in the house for two years and that period is already over and the applicants are not paying any rent since August, 1994.

A cursory glance will indicate that the issue raised in this O.A. and the issue raised in the previous O.A. and the parties also are the same and as such the application is barred by principles of resjudicata.

The law on the subject has been succinctly explained by the Hon'ble Supreme Court in the case of Daryao Singh Vs. State of U.P. reported in AIR 1961 SC 1457. It lays down that the judgement of a court of concurrent jurisdiction, directly upon the point, is a bar or evidence, conclusive between the same parties upon the same matter, directly in question in another court; secondly that the judgement of a court of competent jurisdiction, directly on the point, is conclusive upon the same matter, between the same parties coming incidentally in another court. It has been observed by Halsbury "the doctrine of resjudicata is not a technical principle applicable only to records; it is a universal doctrine applicable in all courts universally laying the norm that there must be an end to litigation." Halsbury also adds that the doctrine applies equally in all courts and it is immaterial in what court the former proceeding was taken, provided only that it was a court of competent jurisdiction. Resjudicata is a rule of universal law prevailing in every well regulated system of jurisprudence and the two basic ingredients of the law are that in the interest of state there should be an

end to litigation; secondly the hardship on the individual that he should not be vexed twice for the same cause. Thus it is not a technical principle but a rule of law and, therefore, this application is barred by the principles of resjudicata and is dismissed accordingly.

As regards the retention of the house, the Hon'ble Tribunal in the previous O.A. had allowed the applicants to remain in the house for a period of two years in breach of the statutory rules, since the normal rules lay down that in case of retirement/death, the family can stay for four months on payment of normal licence fee and for another four months on double the licence fee and in the later case there must be the permission of the competent authority to stay beyond four months subject to production of a certificate from a doctor in respect of ailment or on the basis of a certificate furnished by the educational institution to the effect that the children are studying in an institution. It seems that the Hon'ble Tribunal in the previous O.A. was guided by a judgement in a case of rare hardship in which the Hon'ble Supreme Court had allowed the family to stay for a period of two years but the Hon'ble Supreme Court said that this court is not vested with that power and it has to be guided by the cold logic of law and the rules framed thereunder. However, since the Hon'ble Tribunal had allowed the family to stay in the quarter for two years and that period is over, the respondents are well within their right to cancel the allotment and to declare the applicants as unauthorised occupants and charge market rent/penal rent, if so advised, by taking

that also does not succeed, the respondents are fully entitled to take recourse to Sections 4 & 5 of the Public Premises (Eviction) Act, 1971 to evict them from the quarter after observing all the provisions laid down in these two sections using force if necessary. This O.A. is accordingly dismissed as barred by principles of resjudicata and also on merits in view of the Full Bench ruling in O.A.No.2684/93 decided on 29.5.93 but without any orders as to costs.

  
(B.K. Singh)

Member(A)

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