

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1248/96

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

New Delhi, this 23rd day of August, 1996

Kum. Raj Kumari
aged about 27 years
daughter of Late Shri Banwari Lal
R/o Qr. No.102, Sector-IV
R.K.Puram
NEW DELHI. ... Applicant

(By Shri Surinder Singh, Advocate)

Versus

Union of India - through:

1. The Secretary
Ministry of Urban Affairs
& Rehabilitation
Nirman Bhawan
NEW DELHI - 110 011.
2. The Director of Estates
Directorate of Estates
Nirman Bhawan
Maulana Azad Road
NEW DELHI - 110 011.
3. The Estate Officer
Directorate of Estate
Nirman Bhawan
Maulana Azad Road
NEW DELHI - 110 011. ... Respondents

(By Shri K.R.Sachdeva, Advocate)

O R D E R

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

The applicant was appointed on 22.9.1995 in Government service on compassionate grounds after a lapse of one year and 19 days, since the death of her father, who died in harness on 03.9.1994. The applicant sought for regularisation of quarter which was allotted in the name of her late father, but her request

Contd.....2/-

9

was rejected on the ground that the extant rules permitted for such a regularisation only if compassionate appointment had been secured within 12 months of the death of the original allottee. The refusal of the request for regularisation has repelled in the impugned order issued by the Estate Officer vide order dated 21.5.1996 for eviction of the applicant's family from the allotted premises.

2. Shri Surinder Singh, learned counsel arguing for the applicant, referred to the chronological history of the case of the compassionate appointment given in Para 4.5 of the application, and submits that there was no delay whatsoever on the part of the applicant in submitting the application and in replying to the various queries raised by the respondents in the matter of compassionate appointment. He also pointed out that the decision to give the compassionate appointment had been conveyed by the Chief Engineer (DA) to the Superintendent Engineer (Co-ordination), CPWD, New Delhi with a copy endorsed to the applicant vide his letter dated 29.8.1995 i.e. well before the expiry of the 12 months period. Learned counsel also relied on the order of this Tribunal in OA No. 2139/95 in the matter of Mrs. Sitabi Devi and Another Vs. Union of India & Others (decided on 12.4.1996), wherein the application was allowed though the compassionate appointment was made 18 months after the death of the original allottee and respondents were

Contd.....3/-

22

10

directed to regularise the allotment in the favour of the applicant.

3. The respondents have not denied the facts of the case but have submitted that the rules clearly state that the concession of such an ad-hoc allotment is permissible if the compassionate appointment is secured within 12 months after the death of the original allottee, and since in the applicant's case there was a gap of 10 days, as she was appointed only on 22.9.1995, the request for regularisation had been rejected. Learned counsel for the respondents also, in this connection, submitted that earlier there had been cases of relaxation under the orders of the Minister, but the present policy of the Government was not to allow any relaxation in the Rules. He produced in this context, a copy of the Office Memorandum No.12035(14)/82-Pol.II(Pt.) dated 22.5.1996 which has been taken on record. This Office Memorandum in Para-2 states as follows:

"It has since been decided that generally no relaxation in this regard may be allowed. However, to mitigate the hardship of the family of the deceased allottee, in exceptional cases, delay upto one month in securing employment beyond 12 months from the date of death of the parent, be condoned with the express approval of Minister-in-charge and ad-hoc allotment in such cases may be allowed, subject to fulfilment of other prescribed conditions. No relaxation beyond a period of one month shall be permissible in any case."

4. I have considered the matter carefully. There are two points which go in favour of the applicant. Firstly, the decision of the Chief Engineer (DA) to accord his approval to appoint the applicant vide sanction

Contd.....4/-

dv

letter dated 29.8.1995 was issued well before the expiry of the 12 months limit. Secondly, as per the order quoted above, the delay of 18 days in the actual assumption of office by the applicant is also covered. The learned counsel for the respondent however, submitted that the case of the applicant is not covered under the new rules since the impugned eviction orders have been passed on 21.5.1996 while the OM is dated 22.5.1996 i.e. a day later. It is seen, however, from para-1 of the OM dated 22.5.1996 that some earlier cases where employment had been secured after a period of 12 months were considered and allowed by relaxation of the Rules under the orders of the Minister-in-charge on extreme compassionate grounds. The present OM takes away the earlier discretionary provision for relaxation without hunch and confines it to only a month. Keeping in view the orders of this Tribunal in the afore said case of Mrs. Sitabi Devi and the fact that a decision had been taken in the case of applicant to grant compassionate appointment well before the expiry of 12 months and also that the Government have itself has decided that such relaxation may be allowed upto one month with the approval of the Minister-in-charge, I am of the considered view that the present case also requires reconsideration by the respondents.

5. Accordingly, the impugned order of eviction is quashed and set-aside. The respondents are directed to reconsider the case of the applicant and if she fulfils all other prescribed conditions, to place her case before the Minister-in-charge for appropriate orders in terms of the Office Memorandum dated 22.5.1996.

Contd.....5/-

22

12

Till final decision of the case, the respondents are directed not to disturb the possession of the applicant's family from the quarter under consideration, for which normal licence fee may be charged as per the rules. No costs.

R.K. Ahuja
(R.K. AHUJA)
MEMBER (A)

/RAO/