

97

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1542 of 1996

New Delhi, this the 2nd day of April, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

1. Sh. Vinod Kumar, S/O Sh.
Om Prakash Rohilla, R/O
I-317, Sarojini Nagar,
New Delhi.

2. Sh. Om Prakash Rohilla,
S/O Sh. Chhattar Singh,
R/O I-317, Sarojini
Nagar, New Delhi.

--APPLICANTS.

Versus

1. Govt. of N.C.T. of
Delhi, through the
Secretary, Land &
Building Department,
Govt. of NCT of Delhi, A
Block, Vikas Bhawan, I.P.
Estate, New Delhi.

2. The Govt. of N.C.T. of
Delhi through Director,
Directorate of Education,
Old Secretariate, Delhi.

3. Union of India through
the Director, Directorate
of Estates, Govt. of
India, Nirman Bhawan, New
Delhi.

--RESPONDENTS.

(By Advocate -Sh. S Mohd. Arif)

O R D E R (ORAL)

By Mr. N. Sahu, Member(Admnv) -

The applicant No. 1 is working as Trained Teacher (T.G.T.) in the Govt. Boys Senior Secondary School, Part-3, Sarojini Nagar, New Delhi. He was appointed on 19.3.1998 by the Directorate of Education, Delhi Administration, Delhi. The applicant No. 2 retired as Teacher from the Directorate of Education, Govt. of N.C.T., New Delhi. The impugned order is dated

Kumar

5.2.1996 relating to regularisation of adhoc allotment.

It states that the applicant's case is not covered under the rules because teachers are not entitled to General Pool Accommodation on retirement of parents or the spouses. The accommodation, in question, No. I-317, Sarojini Nagar, New Delhi is allotted to applicant No. 2 from General Pool by respondent No. 3. It is submitted in the pleadings that the applicants do not own or posses any house either in their name or in the name of their family members. The applicant No. 1 has not been drawing HRA since his date of appointment. A number of orders of CAT, Principal Bench have been cited at sub-para (e) of para 4 at pages 4-5 of the OA wherein it is claimed that under similar circumstances relief had been given to the applicants in these OAs.

After notice, the respondents reiterated the ineligibility of applicant No. 1 as per rules and also stated that as the applicant has not vacated the premises within the prescribed extended period, after retirement, eviction proceedings were initiated under the Public Premises Act, 1971 and ultimately eviction order dated 6.8.1996 was passed against the applicant No. 2. However, the only order impugned, in this case, is the order dated 5.2.1996.

Several opportunities were given to the counsel for the applicant but the learned counsel was not present at the time of hearing. On 31.3.1998, the learned counsel for the respondents was present but the proxy counsel for Sh. D P Avinashi counsel for applicant requested for a short adjournment and on that request,

specific adjournment was granted to this date. Again, on this date even after the second call the learned counsel for the applicant was not present. In the circumstances, there is no other alternative except to hear the learned counsel for the respondents and dispose of the OA on the basis of the pleadings on record.

Learned counsel for the respondents Sh. S Mohd. Arif stated that by OM No. 11013 (D)/4/89 - Pol. IV, dated 27.12.1991 the teachers and other staff of the school of Delhi Administration will not be eligible for initial allotment either in turn or adhoc from 'General Pool in Delhi. This certainly is prospective in operation.

Learned counsel for the respondents has also drawn my /attention to the decision of Hon'ble Supreme Court of India in the case of Sh. Shiv Sagar Tiwari Vs. Union of India and Others in WP (C) No. 585/94 dated 9.11.1995. This case precisely covers the point at issue, namely, whether a teacher working under the Delhi Administration and sharing the accommodation with his father/ guardian who is a Central Govt. employee is entitled to allotment of the house after the retirement/ death of the father/ guardian. In all the cases, mentioned in that order of Hon'ble Supreme Court stay was vacated. It was also held that these cases have to be governed by rules provided in the OM dated 27.12.91 (Supra).

(20)

I have also seen the counter reply filed by respondents Nos. 1 and 2 stating that the application is not maintainable because it is pre-mature. There is no cause of action and the applicant has not applied for Govt. accommodation as per the provisions made out in the rules.

After carefully considering the submissions of the applicant and after hearing the counsel for respondent No. 3, I am of the view that there is no merit in this O.A. as per the law laid down by the Hon'ble Supreme Court. The question of allotment either in turn or adhoc is governed by the provisions of OM dated 22.12.1991, issued by the Dy. Directorate of Estates (Policy) under which teachers and other staff of schools of Delhi Administration are not eligible for initial allotment (in turn as well as adhoc). Thus, the non-allotment of this accommodation is not contrary to law and the judgements cited by the applicant, in the OA, are no longer valid, in view of the judgement of the Hon'ble Supreme Court in Shiv Sagar Tiwari's case, even if other conditions are satisfied. As the applicant's case falls under the ineligible category the claim cannot be allowed.

The OA is dismissed. No costs.

Haransahai Sahai
(N SAHU)
MEMBER (ADMNV)