

Central Administrative Tribunal, Principal Bench

O.A.No.1592/96

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

New Delhi, this 28th day of January, 1997

H.C.Pramod Kumar

No.44 /F, FRR0

New Delhi.

Applicant

(By Shri V.C.Sondhi, Advocate)

Vs.

1. The Union of India  
Ministry of Home Affairs  
South Block  
New Delhi.

2. The Commissioner of Police  
Police Headquarters  
New Delhi.

3. The Deputy Commissioner of Police  
HQ. III, Delhi. Respondents

(By Shri Raj Singh, Advocate)

O R D E R(Oral)

The applicant states that his father, who was working as a Sub-Inspector in Delhi Police was allotted quarter No.S-1/2, Type-I, Police Colony, Andrews Ganj, New Delhi.

His father was compulsorily retired on 05.09.1990. The

father challenged the compulsory retirement through

O.A.No.2219/90. During the pendency of that O.A., the father

was allowed to retain the accommodation and the occupation

continued under that order till the disposal of that O.A.

which was dismissed on 13.2.1995. Thereafter, the father was

allowed by the Commissioner of Police to retain the quarter

in question upto 1.11.1996. The applicant states that he

joined the service of Respondent No.2 as Head Constable on

20.12.1994. He made a representation for regularising the

quarter in terms of standing orders No.3/91 but the

respondents have rejected his claim even though he fulfills

all the requisite conditions.

On

2. The respondents in their reply state that regularisation could not be allowed under Rule 8(C)(ii) of the aforementioned standing order as the applicant came into service much after the retirement of his father. Rule 8(C)(ii) reads as follows:-

"Ad-hoc allotment/regularisation may be made on death/retirement of a Govt. servant to his son daughter/brother/wife if the Govt. servant was an employee of Delhi Police and was occupying accommodation of police pool and his dependant is also an employee of the Delhi Police provided such dependant had been sharing accommodation with the retired/deceased Govt. servant for at least 6 months immediately preceding the date of retirement/death and was not drawing any house rent allowance during this period. However, in case of drawl of house rent allowance by the sons/daughter etc. of the retired Govt. servant during the 6 months period, recovery of house rent allowance would be made in lump-sum under the orders of the Allotment Officer, provided further that he gives an undertaking to keep the retired/deceased officer's family in the said quarter and to vacate the premises in one month from the date of he ceases to do so."

In the event of his failure to abide by his undertaking, such an allottee shall be deemed as an unauthorised occupant and allotment of house in his favour shall be deemed to be cancelled w.e.f. that of his ceasing to comply with the condition"

3. I have heard the counsel on both sides. Shri V.C.Sondhi, counsel for the applicant submits that the date of retirement in the present case has to be read as the date of confirmation of the order of retirement which was 13.2.1995 since the order of compulsory retirement was till then under dispute. He further submits that the court had authorised the applicant's father to retain the quarter and thereafter this authorisation was extended by the Police Commissioner himself. The applicant had not drawn any House Rent Allowance after his retirement and he was throughout staying with his father. Therefore, having joined service prior to the date of confirmation of the retirement order, he was fully qualified to be considered for regularisation/allotment of the house to which he was eligible in terms of the aforesaid provision in standing order No.3/91. The

learned counsel for respondents on the other had submits that the ~~date~~ of retirement having been confirmed as 5.9.1990, there could be no other interpretation of the date of retirement on the lines suggested by the applicant's counsel.

(X)


4. I have considered the matter carefully but find no merit in the case of the applicant. The main ground taken by the applicant is that the date of retirement was in dispute so long as the matter was before the Tribunal. It could be said that the Tribunal had found a prima facie case in favour of the applicant's father and it was on that basis that protection had been granted to him for retention of the quarter in question. This in my opinion would be an entirely mistaken view of the matter. The order of compulsory retirement was w.e.f. 5.9.1990. It was the applicant's father who was not satisfied with that order and had challenged it before the Tribunal. The fact that an interim direction was given for retention of the residential quarter would not confer an enforceable right on the applicant's father either in regard to retention of his date of retirement or any other benefit on that basis. It is the final orders of Tribunal which has to be seen and that was the dismissal of the O.A. filed by the applicant's father. The order of retirement having stood the test of judicial review by the Tribunal, no other meaning can be read into the order of the Tribunal that it tantamounts to confirmation; what it means is the rejection of the petition and not a confirmation of the orders of the competent authority directing compulsory retirement of the applicant's father.

5. The learned counsel for the applicant has also argued that the case of the applicant has to be considered from the stand point that he could not apply for regularisation of the

Re

quarter in his favour since the applicant's father was in authorised and lawful possession of the quarter during the pendency of that O.A. and later under the authority of Commissioner of Police. It is only after the orders of retirement was confirmed that he could take steps to apply for the regularisation. This is again not a correct view of the matter. The applicant's father had retired as far back as in 1990. The applicant was not then in service at all. He actually was appointed on 20.12.1994 and therefore, there was no question of his making an application for regularisation till he actually joined the service. In any case, the O.A. was disposed of on 13.2.1995, i.e. within less than 3 months of the date of joining of the service by the applicant; even in that case, ~~were there~~ such an interpretation possible, he would not have been living with his father for 6 months period. However, in view of the fact that the OA filed by the applicant's father was actually dismissed and the compulsory retirement order was put in force w.e.f. 5.9.1990, the applicant would have no claim whatsoever.

6. In the light of the above direction, the O.A. is dismissed. No costs.

  
(R.K. AHOOJA)  
MEMBER(A)

/avi/