

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

(9)

O.A. NO. 1758/1996

NEW DELHI, THIS 28th DAY OF FEB., 1997.

SHRI VIJAY BAHADUR PAL
S/o Shri Sampat, Mali
R/o A-317 Kasturba Nagar
NEW DELHI

...APPLICANT

(By Advocate - Shri D.R. Gupta)

VERSUS

VERSUS

1. Director
Director of Estates
Nirman Bhawan
NEW DELHI

2. Director
National Zoological Park
Mathura Road
NEW DELHI

..RESPONDENTS

(By Advocate - Shri M.M. Sudan)

ORDER

The applicant's father, who was in the service of respondent No.2, expired on 11.7.1994. At that time, he was an allottee of quarter No.A-317, Kasturba Nagar, New Delhi, which the applicant claims he was also sharing. The applicant made a request for retention and allotment of the aforesaid quarter in his name after obtaining compassionate appointment. His request was rejected on the ground that he had obtained the compassionate appointment after 12 months of his father's death. The applicant is aggrieved by this order of rejection and cancellation of allotment as well as issue of eviction notice. His case is that the delay in providing compassionate appoint-

ment was entirely on account of slackness on the part of respondent No.2 and that in similar other cases, respondent No.1 has regularised the allotment in favour of the wards even where compassionate appointment had been obtained after a lapse of 12 months.

2. The respondents in reply state that the rules permit such ad hoc out of turn allotment/regularisation only where compassionate appointment is obtained within 12 months. They also submit that the Supreme Court in SHIV SAGAR TIWARI has decided that where a person has got employment more than a year after the death of the original allottee, he is not entitled to the transfer of the house in his name..

3. In the rejoinder, the applicant has submitted that the respondents have not understood his case in the proper perspective. He claims that as per respondents' own instructions, even the ad hoc employee followed by regularisation is entitled to the regularisation of government accommodation if the ad hoc employment has been obtained within a period of 12 months. The applicant submits that he had been originally appointed within three months of the death of his father as a casual labour and subsequently he was given ad hoc appointment which was converted into regular appointment on 14.8.1996.

4. I have heard the ld. counsel on both sides and also gone through the pleadings on record. The ld. counsel for the applicant relies on an order of this Tribunal in O.A. 2716/92, SHRI RAVINDER KUMAR VS. DTE. OF ESTATES & ORS. delivered on 2.12.1993. In that case, the petitioner

was a muster roll Khalasi on the date of retirement of his father. It was held that a muster roll employee was like an ad hoc employee and as it has already been held in an earlier O.A. No.1856/1990 that a casual labour should be put at par with an ad hoc employee for his entitlement to government accommodation on the retirement of his father. Insofar as SHIV SAGAR TIWARI case is concerned, the ld. counsel submitted that the final orders in that case are yet to be passed and that there is no clear direction from the Supreme Court that relaxation of the rules is not possible in appropriate cases.

5. I have considered the matter carefully. It was not a part of the original pleadings of the applicant that he had obtained casual employment with respondent No.2 within the period of 12 months followed by ad hoc and later regular employment. This point was brought up only in the rejoinder. Further more, the certificate A-1 annexed to the rejoinder only states that the applicant had worked in the National Zoological Park as daily paid worker with usual breaks. The extent of the usual breaks has not been mentioned. Obviously, the employment of the applicant even as a daily paid worker was not of a continuous nature. There is no mention that beyond 31.10.1995, this employment was converted into ad hoc appointment and subsequently became regular appointment in July 1996. Thus, on the basis of documentary proof submitted by the applicant or on his own averment, it cannot be said that the daily wages employment obtained by him w.e.f. 20.9.1994 was continuous and unbroken till it was converted into regular appointment.

12

OA NO.1758/96

Even the application for regularisation is admittedly dated 3.7.1996, that is, two years after the death of his father. In the circumstances, he cannot get the benefit of ratio of Tribunal's order in OA 2716/92.

6. For the aforesaid reasons, I find no merit in the case of the applicant. The O.A. is accordingly dismissed. No costs.

R.K. Ahuja —
(R.K. AHOOJA)
MEMBER (A)

/avi/