

Central Administrative Tribunal, Principal Bench

O.A.No.1832/96

M.A.No.1727/96

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

New Delhi, this the 23rd day of September, 1997

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1. Vinod Naudiyal
s/o Shri Bharose Lal
Address Residence
F-140, Nanakpura
New Delhi - 110 021
working as Lab Asstt. Grade III
C.S.M.R.S.
M/o Water Resources
Hauz Khas
New Delhi.

2. Shri Bharose Lal
s/o Shri Bal Kishan Naudiyal
Address Residence
F-140, Nanakpura
New Delhi - 110 021
Retired Lab Helper Grade I
C.S.M.R.S.
M/o Water Resources
Hauz Khas
New Delhi.

... Applicants

(By Shri M.P.Singh, Advocate)

Vs.

1. Union of India through
Secretary
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi - 110 001.

2. Director
Directorate of Estates
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi - 110 001.

3. Estate Officer
Directorate of Estates
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi - 110 001.

4. The Director
Central Soil & Material Research Station(CSMRS).
M/o Water Resources
Hauz Khas
New Delhi.

... Respondents

(By Shri Madhav Panikar with Shri M.M.Sudan, Advocates)

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O R D E R (Oral)

Applicant No.2 was in occupation of Govt. accommodation No.F-140, Nanakpura, New Delhi. This accommodation had been allotted to him while he was working as Lab Helper (Grade-I). During his service he went on medical leave. By an order No.8/31/82-Estt.III/629 dated 5.4.1995 (Annexure - A1), he was retired from Govt. service on account of his bodily infirmity w.e.f. 4.2.1995(AN). Applicant No.1 thereafter applied for compassionate appointment and vide letter dated 1.2.1996 (Annexure A4 and Annexure A5) he was informed that he was being considered for appointment as Lab Assistant Grade-III and was also referred for his medical examination. After the requisite medical examination, Applicant No.1 joined his duty on 29.3.1996 as Lab Assistant Grade-III. Thereafter Applicant No.1 applied for regularisation of the quarter in his name vide application dated 8.4.1996. The same was however rejected vide letter dated 17.7.1996 by the Directorate of Estates on the ground that the appointment on compassionate ground had not been made within the period of one year of retirement on medical grounds of father, as required under the Rules.

2. I have heard the learned counsel on both sides. The short question is whether the period of one year laid down under the Rules is to be counted from the date of order of retirement i.e. 5.4.1995 or from the date from which the retirement became effective retrospectively, i.e., 4.2.1995. The learned counsel for the applicant points out that though applicant No.1 joined duties w.e.f. 29.3.1996, the respondents had intimated his selection vide letter dated 1.2.1996. Having considered the matter carefully, I find merit in the case of the applicants. Applicant No.1 could not have applied for compassionate appointment until the order of retirement of Applicant No.2 had actually been issued. This admittedly was ~~shown~~ ^{through} in the letter

On


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dated 5.4.1995 with retrospective effect from 4.2.1995, possibly the date on which the medical examination was conducted and Applicant No.2 was declared medically unfit to continue in service. The period of one year provided in the Rules is therefore to be counted from the actual date of issue of orders of retirement. Since Applicant No.1 obtained the compassionate appointment on 29.3.1996 i.e. within one year from the date of issue of orders of retirement, he was clearly eligible to be considered for such allotment. In this view of the matter, respondents were not right in rejecting the claim of the applicants for regularisation of the quarter.

3. In the light of the above discussion, I dispose of this OA with a direction to the respondents to consider the case of regularisation of allotment to Applicant No.1 on the understanding that the compassionate appointment was obtained within one year of the date of retirement of his father.

OA is disposed of as above. No costs.


(R.K. AHOOJA)
MEMBER(A)

/rao/