

10

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 197/96

New Delhi this the 9th day of July, 1996.

Hon'ble Shri A.V. Haridasan, Vice Chairman(J).

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

1. Hari Om Sharma,
S/o Late Shri Malkhan Singh,
2. Smt. Ramesha Devi,
W/o late Shri Malkhan Singh.

(Both R/o Qr. No. G-185, Aram Bagh,
Paharganj, New Delhi.)

..Applicants.

By Advocate Shri Sant Lal.

Versus

1. The Union of India, through
The Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi-11.
2. The Director of Estates, Govt. of India,
Nirman Bhawan, New Delhi-11.
3. The Estate Officer,
Directorate of Estates,
Nirman Bhawan, New Delhi-11.

..Respondents.

By Advocate Shri V.S.R. Krishna.

O R D E R

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

The deceased father of the Applicant No. 1 was an allottee of General Pool Type-B Quarter No. G-185, Aram Bagh, Paharganj, New Delhi. On the death of the original allottee on 6.11.1993 Applicant No. 1 applied for compassionate appointment on 24.12.1993. His case was recommended to officer the Ministry by the concerned CPWT / on 22.8.1994 and the Ministry of Urban Development vide their letter dated 31.10.1994 gave approval for appointment of the Applicant No. 1 as LDC on compassionate

grounds. The letter of appointment was issued on 11.11.1994 and the applicant joined his duty on 13.1.1995. His mother (Applicant No.2) then requested for regularisation of the Govt. accommodation in the name of her son, Applicant No. 1. Applicant No. 1 also submitted an application in the prescribed form on 24.3.1995, along with various documents such as, affidavits, photo copies of ^{and CGHS} ration/ card, etc. The same was forwarded to the Director of Estates, on 7.4.1995. The applicants state that the matter was pursued with the Director of Estates by them through the said authority, but the Estate Officer who is Respondent No. 3 initiated eviction proceedings vide his letter dated 23.12.1995. In reply to the show cause notice, the position was explained by Applicant No. 1 to the Estate Officer but the impugned eviction orders were passed on 12.1.1996.

2. The case of the Applicant No. 1 is that he was entitled to the regularisation of the quarter in terms of Govt. of India instructions but the respondents rejected his case, on the ground that there was a delay of about two months and seven days between the date of appointment, i.e. 13.1.1995 and the date of cancellation, i.e. 6.11.1994. The applicants allege that the delay in compassionate appointment was entirely on account of procedural delays and the approval for the appointment of the applicant on compassionate ground had, in fact, been given by O.M. dated 31.12.1994, i.e. within a period of one year from the death of the father of Applicant No.1.

3. The respondents in their reply state that the delay of two months and seven days had been condoned by the Minister of State and Govt. accommodation regularised in the name of the applicant subject to payment of damages for the intervening period, but regularisation letter could not be issued as, in the meantime, the Hon'ble Supreme Court in their interim order dated 17.7.1995 banned ad hoc allotment and the applicant's case was kept in abeyance till the finalisation of the Supreme Court's case.

4. We have heard the learned counsel on both sides. Shri Sant Lal, appearing for the applicants, argued that the Tribunal has, in the past, granted the relief sought for when there is delay in the compassionate appointment beyond the period of 12 months made in the allotment rules. He cited the case of Mrs. Sitabi Devi & Anr. Vs. Union of India & Ors. (O.A. No. 2139/95), decided on 12.4.96, in which case the compassionate appointment had been given after a lapse of one and a half years subsequent to the original allottee. Similarly, in the case of Ms. Pinki Rani Vs. Union of India & Ors. (1987(2) ATLT P.301), the compassionate appointment had been delayed for seven years because the applicant was minor on the death of her father. The learned counsel for the applicants further cited the ruling of the Hon'ble Supreme Court in the case of Phoolwati Vs. Union of India (AIR 1991 SC P.469) where the Hon'ble Supreme Court passed

De

an order for immediate grant of compassionate appointment and also allowed her to continue in the Govt. quarter.

5. Shri Sant Lal, learned counsel for the applicants, submitted that the orders of the Hon'ble Supreme Court in the case of Shiv Sagar Tiwari Vs. Union of India & Ors. (WP(C) 585/94), relied upon by the respondents were in the nature of interim directions and the final orders were yet to be passed. He further submitted that the context in which the Hon'ble Supreme Court had passed the aforesaid orders is entirely different from the situation in which the applicant's case was placed. The matter before the Hon'ble Supreme Court in Shiv Sagar Tiwari's case related to irregularities committed in granting large scale out of turn allotments while in the case under consideration regularisation of quarter was allowed as per Govt. instructions as the only difficulty was that the compassionate appointment had been made after a delay of two months and 7 days beyond the permissible period of 12 months. Shri Sant Lal also produced a copy of instructions issued by D.E. OM No. 12035(14) 82-Pol.II (Pt.) dated 13.4.1989, which state as follows:

On "...Cases where an eligible dependent secures employment after a period of twelve months from the date of death of the parent and where ad hoc allotment may be justified on extreme compassionate grounds, the request for such ad hoc allotment may be examined on merits of individual case and decision taken under the powers vested in the Govt. to relax the

14

Allotment Rules under SR-317-B-25. Such cases shall require orders of MOs(UD)/UDM".

6. Shri V.S.R. Krishna, learned counsel for the respondents, in reply pointed out that the delay of two months and seven days had, in fact, been condoned by the Minister of State, but the respondents were unable to issue the regularisation orders since the directions of the Hon'ble Supreme Court in Shiv Sagar Tiwari's case issued on 17.7.1995 were specific. He drew our attention to that portion of the order of the Hon'ble Supreme Court which states as under:

"...Keeping in view the prevailing situation, we direct that no out of turn allotment shall be made by the Housing Ministry till further orders. We permit out of turn allotment only on genuine medical grounds such as the government employees suffering from T.B. or Cancer. No other category shall be given out of turn allotment till further orders".

Shri Krishna submitted that since no further orders have so far been received, the respondents considered that they continued to be under the directions of the Hon'ble Supreme Court not to go beyond the rules of allotment and to grant any kind of relaxation except in the type of cases specifically mentioned in the above quoted order of the Hon'ble Supreme Court.

7. We have considered the matter carefully.

The question which arises is whether the 'ad hoc' in the name of near relatives permitted by Govt. instructions allotment/also means out of turn allotment. Iyer's

02
Dictionary, 11th Edition, states that ad hoc means 'For this' while the Concise Oxford Dictionary

1990 Edition gives the meaning of ad hoc as 'for a particular (exclusive) purpose'. Out of turn on the other hand would mean taking somebody's case out of the normal turn or out of the queue. Thus, while ad hoc means that it is for a specific and particular purpose, out of turn means relaxation of norms and rules. Thus, ad hoc allotment and out of turn allotment would be on different footings. This, however, would be so only when the ad hoc allotment is within the conditions prescribed. The Govt. instructions mentioned under the heading 'Ad hoc allotment in the name of near relation' at page 384 of Swamy's Compilation of FR SR, 1993, read as follows:

"(b) A request for ad hoc allotment to an eligible dependant may also be considered in case the dependant gets an employment in an eligible office even after the death of the officer provided such an appointment is secured within a period of twelve months after the death of the officer and that the accommodation in occupation of the officer has not been vacated. Eviction in such cases will not, however, be delayed on consideration that the dependent is likely to get an appointment".

On the other hand, the instructions quoted by the learned counsel for the applicants state that where ad hoc allotment may be justified on compassionate grounds, request for such ad hoc allotment may be examined under the powers vested in the Govt.

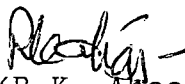
to relax the allotment rules under SR.317-B. This means that while the ad hoc allotment may not be ^{out of turn} considered by itself since it is made for a specific

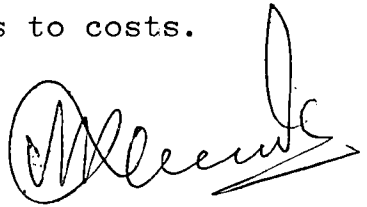
purpose for the families placed in difficulty and indigent circumstances due to the death of the head of the family, When such appointments are made beyond the prescribed period of 12 months of the death of the original allottee, relaxation of the rule is involved and hence it becomes out of turn allotment since the same is not permissible under the normal rules. In this view of the matter, we are inclined to agree with the interpretation of the learned counsel for the respondents that the cases involving relaxation of the rules involve out of turn allotment which have been banned by the Hon'ble Supreme Court except in certain cases in which the present case under consideration does not fall.

8. Shri Sant Lal has also argued that the orders of the Hon'ble Supreme Court are interim directions and the final orders are yet to be passed by the Apex Court. For this reason, he submitted that the eviction proceedings should be stayed till such time that the final orders are passed by the Hon'ble Supreme Court. We are unable to agree with this contention since the orders of the Hon'ble Supreme Court quoted by Shri Krishna are very specific and it is not open to the respondents to go beyond the allotment rules except in the case of illness. In the event that the Hon'ble Supreme Court is pleased to give a different direction in the final orders, the applicants could then seek relaxation for out of turn allotment.

d

9. In the conspectus and circumstances of the case, we find that in view of the order of the Hon'ble Supreme Court in the case of Shiv Sagar Tiwari(Supra), there is no scope for us to intervene in the matter. The application is accordingly dismissed. There will be no order as to costs.


(R.K. Ahooja)
Member(A)


(A.V. Haridasan)
Vice Chairman(J)

'SRD'