

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.NO.205/96

New Delhi, this the 19th day of July, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Smt. Sumriti,  
w/o late Sh. Kalicharan,  
r/o F-2099, Netaji Nagar,  
New Delhi.
2. Shri Vir Singh,  
s/o late Shri Kalicharan,  
r/o F-2099, Netaji Nagar,  
New Delhi.

... Applicants

By Advocate: Shri H.B. Mishra

Vs.

1. Union of India  
through  
The Secretary,  
Ministry of Urban Affairs and Employment,  
Nirman Bhawan,  
New Delhi.
2. The Director,  
Directorate of Estate,  
Nirman Bhawan,  
New Delhi.
3. Shri P.M. Mishra,  
Estate Officer,  
Directorate of Estate,  
Nirman Bhawan,  
New Delhi.
4. Govt. of National Capital  
Territory of Delhi,  
Directorate of Education,  
Old Secretariat,  
Delhi.

... Respondents

By Advocate: Ms. Pratima K. Gupta

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O R D E R

The applicants have filed this application under section 19 of the Administrative Tribunals Act, 1985 being aggrieved by the non regularisation of the allotment of Govt. quarter No.F-2099, Netaji Nagar, New Delhi in favour of Applicant No.2. The applicants contend that they and their family have been residing in the quarter for the last several years after the father of the Applicant No.2, Shri Kalicharan, a Sweeper in the Govt. of NCT Delhi died. The applicants have paid the licence fee w.e.f. 9.3.94 and it is also stated that the respondents have assured them that the quarter in question will be regularised in the name of Applicant No.2.

2. The brief facts of the case are that the husband of Applicant No.1 and the father of Applicant No.2, late Shri Kalicharan had been allotted the quarter while in service as Sweeper in the Govt. Boys Senior Secondary School No.4, Sarojini Nagar, New Delhi. He died on 9.3.93 leaving behind his wife, two daughters, son, Applicant No.2 and his family. Applicant No.2 had submitted an application dated 26.3.93 for appointment on compassionate grounds and he was appointed by order dated 29.8.95 as L.D.C. and he joined the post on 19.7.95 (Annexure A-2). Applicant No.2 submits that he made an application for regularisation of the quarter which is a Type-I quarter, though he was entitled for Type-II

accommodation, and his application was duly recommended and forwarded to Respondent No.2. By letter dated 18.12.95, the application for regularisation was rejected with a direction to the applicant to vacate the quarter (Annex.A-4). The learned counsel for the applicant submits that an appeal was submitted against this rejection on 3.1.96 which has not been disposed of. In the meantime, another order dated 18.12.95 was issued by Respondent No.3 which is a show cause notice. Shri H.B. Mishra, learned counsel for the applicant relies on judgement - order of the Supreme Court in Shiv Sagar Tiwari Vs. UOI & Ors. (W.P.(Civil)No.585/94) dated 21.9.95 in the case of T.J. Paul, 163, Aram Bagh, New Delhi. He relies on the submissions made by Shri KTS Tulsi, Additional Solicitor General that the daughter Ms. Shirly Paul was entitled to the allotment of the quarter which was allotted to her father, who died on 11.12.92, when she had been appointed as L.D.C. on 21.7.95. The learned counsel for the applicant, therefore, submits that on similar considerations since the Applicant No.2 has also been appointed on compassionate grounds on the death of the father, the allotment of the quarter, which was originally allotted to the deceased father, should be regularised in his name.

3. The respondents have filed their reply in which they have controverted the above averments. They have stated that the allotment of the quarter to the father, who died on 9.3.93,

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had been cancelled with effect from 9.3.94 after allowing one year concessional period permissible under the allotment rules. The applicant's request for regularisation of the said quarter had also been considered but the same was rejected on 6.12.95, as it was not covered under the allotment rules. The applicant was appointed on 19.7.95 whereas his father had expired on 9.3.93 i.e. more than one year had elapsed..Ms. P.K. Gupta, learned counsel for the respondents has relied on the ~~later~~ order passed by the Supreme Court on 19.12.95 in the same case of Shiv Sagar Tiwari Vs.UOI & Ors. (copies of these orders are placed on record). In the later in Item 'I', order~~s~~ the Supreme Court has held that pursuant to their order dated 21.9.95 Shri Tulsi had stated that Ms.Shirly Paul, daughter of Mr.T.J. Paul has not yet been appointed to any post. In this view of the matter, the court held that she was not entitled to the allotment of the house. Further it was held that "in any case since she has not been able to get the appointment within one year of the death of the father she is not entitled to the regularisation of the house."

Ms. Shirley Paul was directed to vacate the house and hand over vacant possession before 31.1.96." The learned counsel also relies on the <sup>same</sup> order passed by the Supreme Court in Item 'M' in the case of Kehar Singh on 19.12.95, wherein similar circumstances

B.

Shri Satish Singh Nariyal got the Government appointment more than one year after the death of Shri Kehar Singh. He was held not eligible for regularisation of the house and was directed to vacate the house in his possession on or before 31.1.96. Ms. P.K. Gupta, learned counsel, therefore, submits that the judgement of the Supreme Court in these cases are fully applicable to the facts of the present case and prays that the application may be dismissed, as the applicant does not fulfil the conditions for regularisation of the quarter.


4. The applicant has filed rejoinder in which the main pleas have been reiterated. Shri H.B. Mishra, learned counsel for the applicant has submitted that the quarter should be regularised in the applicant's name on out of turn basis even though the rules may not exactly cover the case beyond the period of one year because the applicant had been paying regularly rent for more than one year, so there is acquiescence on the part of the respondents for the regularisation. Therefore, the respondents cannot now be allowed <sup>to</sup> blow hot and cold and the delay in appointment of the applicant should be condoned as far as regularisation of the quarter is concerned. He also submitted that the delay in appointment cannot be attributed to Applicant No.2, although no materials have been shown for this contention, which is, therefore, rejected.

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5. I have carefully considered the pleadings and the arguments of both the learned counsel for the parties.

6. From the facts given above, applicant No.2 is not entitled as per the rules for regularisation of the quarter which had been allotted to the father as his appointment on compassionate ground was more than one year after the death of the father. The fact that the applicant continued to pay the rent for the period of more than one year <sup>when 19.12.95</sup> he was occupying the quarter does not entitle him for regularisation of the quarter on out of turn basis, as he is bound to pay the rent in accordance with the rules for the period of occupation.

7. Since the applicants are not entitled for regularisation of the quarter as per rules, and having regard to the Supreme Court order passed on 19.12.95 in Items 'I' and 'N' in Shiv Sagar Tiwari Vs. UOI & Ors. (W.P. (Civil) No.585 of 1994), there is no merit in this application and it is accordingly dismissed. No costs.

  
(SMT. LAKSHMI SWAMINATHAN)  
MEMBER(J)

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