

15

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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

NEW DELHI, THIS 5th DAY OF SEPTEMBER 1997

OA NO.2134/1996

RAJ KUMAR
S/o Lt. Shri Jagdish Lal Passi
B-86 Sarojini Nagar
New Delhi

...APPLICANT

(By Advocate - Shri D.R. Gupta)

versus

1. Director of Printing
Ministry of Urban Development
Govt. of India
Nirman Bhawan
New Delhi

2. The Manager
Government of India Press
Minto Road
New Delhi

..RESPONDENTS

(By Advocate - Shri K.R. Sachdeva)

ORDER

list
2

The father of the applicant, who had been allotted Quarter No.B-86 Sarojini Nagar, New Delhi (Type II accommodation), expired on 2.7.1982 while in the service of respondents. The applicant was thereafter given compassionate appointment in the Government of India Press as Bindary Assistant w.e.f. 1.2.1984. The applicant while applying for compassionate appointment had also sought retention of the accommodation allotted to his father. He was permitted to retain the quarter and deposit the licence fee, which he did on 23.7.1983.

contd...2/-

On 17.1.1985, he was advised to make a formal application in the prescribed form, by respondent No.2. Further licence fee of Rs.4938/- was also deposited by the applicant on 5.10.1985. The applicant submits that he has not been drawing HRA since the date of his appointment. He is aggrieved that the respondents instead of regularising the aforesaid quarter in his favour or making ad hoc allotment of some other accommodation, served him an eviction notice on 26.4.94. He claims that with a basic pay of Rs.1070/- per month, he is now entitled for allotment of a type II quarter. He submits that he is covered by the relevant Government of India orders under SR 317-B-26 for regularisation of the quarter allotted to his deceased father. He therefore prays that the eviction order dated 25.9.1996 and the order of cancellation of allotment w.e.f. 3.11.82 (A-1 and A-2) be quashed and the respondents be directed to regularise the quarter in his favour from the date of allotment on payment of normal licence fee.

2. The respondents have filed a counter reply. They state that the family of the deceased Government servant was allowed the said quarter for a period of four months on normal rent and thereafter for six months on medical grounds. On the applicant's appointment on compassionate ground, he was told that his application could be considered as per rules only after he had cleared all dues. When the request was forwarded to the Headquarters, the same was rejected vide Government order dated 1.2.1984 (R-1) and the applicant was also informed on 17.1.1986 (R-2). They state that the applicant was not entitled to regularisation of the quarter but he continued in unauthorised occupation nor did he deposit

the penal rent to the Estate Office. This penal rent now exceeds rupees one lakh. The respondents state that the applicant at the time of his employment was entitled only to a type I quarter and the type II quarter allotted to his late father could not in any case be regularised in his favour. Further, he had secured employment 16 months after the death of his father and therefore he could not be considered for ad hoc allotment of a type I accommodation also.

3. I have heard the counsel on both sides. The ld. counsel for the applicant Shri D.R. Gupta, submitted that the applicant had been allowed to continue in the said quarter right from 1982 till 1996, for a period of 14 years. In the mean time, he had also become eligible for allotment of a type II accommodation. He pointed out that though the respondents claim that the applicant's request for regularisation had been rejected as far back as in 1986, the respondent's OM dated 5.8.1996 (R-4) clearly states that the same was never communicated to the applicant by his Press. The said OM directed the Manager, Government of India Press, to fix responsibility and to take appropriate action for this failure. Having allowed the applicant to continue in peaceful possession for such a long time, the ld. counsel argued, the respondents were now estopped from taking action to evict him. He pointed out that under the then rules, the wards of deceased government servants could be considered for ad hoc allotment even if they secured the compassionate appointment after a lapse of 12 months. He also relied on the decision of this Tribunal in OA No.1294/1996 dated 15.10.1996 (copy at R-5). In that case, in similar circumstances, respondents had given allotment of type I quarter.

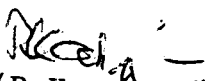
4. The ld. counsel for the respondents, Shri K.R. Sachdeva, submitted that the applicant could not deny that no regularisation of the quarter in his favour had taken place. Working in the Press, he could also not be ignorant of the communication regarding the rejection of his request. In any case, the applicant was not entitled to a type II category house. The eviction proceedings against him were undertaken in 1974 but the applicant again filed a representation and its consideration took some time. As regards the judgement of this Tribunal in OA No.1294/96, Shri Sachdeva at my request ascertained from the respondents that they would be ready to allot a type I quarter No.D-440, Netaji Nagar, to the applicant but the applicant will have to pay the penal rent in respect of quarter No.B-86 Sarojini Nagar, in accordance with the allotment rules. A letter from the Manager of the Press was also produced. The same has been taken on record.

5. I have carefully considered the submissions of the counsel on both sides and have also gone through the pleadings on record. It is the admitted position that the applicant was not entitled for allotment of a type II quarter when he obtained employment on compassionate grounds. He had also obtained this compassionate appointment 16 months after the death of his father. Under the rules, he was neither entitled for the quarter allotted to his late father nor to ad hoc allotment of a type I quarter. His application for regularisation was also rejected, though the applicant claims that it was never communicated to him. Be that as it may, the fact remains that his request for regularisation was never accepted. Therefore, he was throughout in unauthorised

19

occupation of the house. As such, he is liable to pay the penal rent for the period he continued to occupy the house. The respondents have now offered to give him a type I quarter which I consider to be a fair offer in the circumstances. I therefore dispose of this O.A. with a direction that in case the applicant pays the penal rent in respect of quarter No.B-86, Sarojini Nagar, the respondents will allot him quarter No.D-440 Netaji Nagar, New Delhi. In line with the decision of this Tribunal in OA No.1294/96, the respondents will permit the applicant to pay the arrears of penal rent in 10 equal monthly instalments. The respondents will also allow the applicant to retain the quarter at Sarojini Nagar for a period of two months from the date of receipt of a copy of this order subject to payment of penal rent, in order to enable him to make necessary arrangements to clear the outstanding dues and to shift to type I quarter to be allotted to him.

6. The O.A. is disposed of accordingly. No costs.


(R.K. AHOOJA)
MEMBER (A)

/avi/