

Central Administrative Tribunal, Principal Bench

O.A.No.2135/96

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

New Delhi, this 11th day of July, 1997

Raj Kumar
s/o Late Shri Jagdish
Ex-Bindry Asstt.
r/o, H-434, Type-'A'
Srinivasapuri
New Delhi - 65. Applicant

(By Shri D.R.Gupta, Advocate)

Vs.

1. The Director of Printing
Ministry of Urban Development
Nirman Bhawan
New Delhi.
2. The Manager
Govt. of India Press
Minto Road
New Delhi - 110 002. Respondents

(By Shri K.R.Sachdeva, Advocate)

O R D E R

The case of the applicant briefly is that the applicant's father died in harness on 25.3.1984 while in service of the respondents. The applicant who obtained the compassionate appointment from the same department on 9.8.1985 applied for regularisation of the quarter No.H-434, Srinivasapuri, Type-A, New Delhi which was allotted to his late father. Under S.R.-317/B-26, there is a provision for such regularisation subject to the condition that the compassionate appointment is obtained within a period of 12 months after the death of the original allottee. There were at that time separate orders contained in D.E.O.M.No.12035(14)/82-Pol-(II Pt.) dated 13.4.1989 which laid-down that where ad-hoc allotment might be justified on extreme compassionate grounds, the request may be examined on merits of individual case even where the eligible dependent secured employment after a period of 12 months; such cases

however would require orders of Minister of State(MOS), M/o Urban Development. The applicant submits that the respondents under the provisions of this OM had been regularising the allotments in favour of dependants in cases such as his and same was admitted by the respondents in a number of OAs (OA No.1962/90 and OA No.2137/90). In a similar case directions were also issued by the Hon'ble Supreme Court in Smt. Phool Wati Vs. Union of India, 1991 Supplementary(2) SCC 689 for regularisation even though appointment was made after the expiry of 12 months period. According to the applicant, his request for regularisation was recommended by his office and at their instance he continued to pay normal rent. Now, suddenly, after a lapse of 12 years, the respondents have turned down his request for regularisation, on the ground that he did not secure the compassionate employment within a period of 12 months, and have issued a notice for vacation of the quarter within 15 days or the pain of eviction by force. The applicant has come before the Tribunal with a prayer that the order of the eviction dated 25.9.1996 be quashed and the cancellation of allotment of the quarter be set-aside and the same be regularised w.e.f. 24.9.1984 on payment of normal licence fee.

2. The respondents in reply have admitted that the applicant had applied for regularisation of the quarter on his compassionate appointment and his request was duly sent to the sanctioning authority, namely, Directorate of Printing, Nirman Bhawan, New Delhi for necessary consideration but the same was rejected vide letter dated 27.10.1986 (Annexure R-1). However, the applicant retained the said quarter till date without paying any

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rent/damages. Thereafter, a show-cause notice was issued vide R-2 in 1993 but the applicant had again represented vide R-3 for regularisation. This request has been finally rejected vide R-4 and hence the impugned eviction order dated 25.9.1996 has been served on the applicant. The request for regularisation has been rejected by the respondents on the ground that the compassionate appointment has not been obtained within the stipulated period of 12 months.

3. I have heard the counsel on both sides. I find that the applicant has a strong case. The original allottee died on 25.3.1984. The applicant secured the compassionate appointment on 9.8.1985 i.e. within 16 months. His request for regularisation was made in time and was also duly sent to competent authority for decision. According to the respondents, the request was turned down in 1986 but they themselves admit vide R-4 that the decision was not communicated to the applicant. In fact, an enquiry has been suggested with the negligence of the officials of the Press for not sending the communication to the applicant. Be that as it may, the fact remains that the applicant was never informed of the decision that his request for regularisation had been rejected. What is more the respondents allowed the applicant to continue in occupation of the quarter in question till 1993, when for the first time they issued a show-cause notice. Thereafter, they once again went into hibernation in so far as the status of the allotment of the quarter was concerned, and it was not till 1996 that the notice was issued for eviction of the quarter.

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4. Shri K.R.Sachdeva, learned counsel for the respondents submits that after the decision of the Supreme Court in Shiv Sagar Tiwari's case the cases of all dependents who secured employment after 12 months of the death of the original allottee have been turned down. It is to be seen however that the case of the applicant is not a recent one but of 1984. At that time, admittedly, there was an Office Memorandum dated 13.4.1989(supra), according to which cases of compassionate appointment made after 12 months were also be considered under the orders of the MOS(Urban Development). On that basis a number of such cases were also regularised. The applicant had therefore, a right at that time to have his case considered in the light of the OM dated 13.4.1989. Even in the order of rejection R-1 the respondents have not given the reason for rejecting his request; nor was the decision communicated to the applicant.

5. In the light of the above discussion, I dispose of this OA with the following directions:

- a) The respondents will consider the case for regularisation in the light of the OM dated 13.4.1989 keeping in view the fact that they had allowed the applicant to continue in occupation for a period of nearly twelve years. This would be done within a period of three months and a decision communicated to the applicant by way of a reasoned and speaking order immediately.

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b) Whatever the decision of the respondents the applicant will be charged normal rent till the date of the issue of the impugned order dated

25.9.1996.

6. OA is disposed of with the above directions. No costs.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

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