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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2286 of 1996

New Delhi, this the 10th day of July, 1997

Hon'ble Mr. N. Sahu, Member (A)

Darwan Singh Rawat, son of late Shri Sangram Singh, House No. 38, C, Aram Bagh, New Delhi - Applicant
(By Advocate-Shri George Paracken)

Versus

1. The Director, Directorate of Estates, Maulana Azad Road, Nirman Bhawan, New Delhi
2. The Station Commander, Civil Administration, Indian Air Force, Air Force Station, Race Course, New Delhi - Respondents

(By Advocate- Shri R.P. Agarwal)

JUDGMENT (Oral)

Hon'ble Mr. N. Sahu, Member (A) -

The applicant in this case seeks a direction to the respondents to allot a Type-II accommodation immediately and to quash the order of eviction dated 15.10.1996 (Annexure-B). The further prayer is to direct the respondents to charge only normal licence fee in respect of Quarter No. 38-C, Aram Bagh, occupied by him, till an alternate accommodation is allotted to him.

2. The facts in brief are that Shri Sangram Singh, the applicant's father, worked as a Lascar (labourer) at Air Force Station, New Delhi. He was allotted quarter no. 38-C, Aram Bagh. He died in harness on 10.11.1989. Late Sangram Singh's wife applied for a compassionate appointment to his son - the present applicant on 5.1.1990. He secured the appointment after 4½ years on 8.8.1994. Concurrently in August, 1994 the applicant had applied for regularisation of this quarter in his name. This request was considered and rejected vide order dated 4.6.1996 (Annexure-A) and he

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was advised to vacate the accommodation immediately. Thereafter vide order dated 15.10.1996 (Annexure-B) he was declared as an unauthorised occupant because he continued to occupy the premises after this allotment stood cancelled with effect from 10.11.1990.

3. The learned counsel for the applicant Shri George Paracken submits that the delay in considering his case for compassionate appointment was entirely by the respondents. He hoped to secure the appointment well within the time of 12 months and continued to stay in the quarter on that score. He secondly argued that SR 317-B-25 empowers the Government to relax the allotment rules. As there was delay in granting the compassionate appointment, entirely attributable to the respondents, he invoked the discretion of the authorities under SR 317-B-25 and prayed for consideration of his case by the competent authority.

4. The learned counsel for the respondents first upon cited Annexure-R-1 which is an instruction on the subject dated 13.7.1981. This instruction clearly stipulate that the accommodation, if it is within the entitled category, can be regularised in the name of the dependent provided that such an appointment is secured within a period of 12 months after the death of the breadwinner. As the applicant does not fulfil the condition 3(b) of OM dated 13.7.1981, the rejection order cannot be assailed. The learned counsel cited a decision of a Division Bench of this Tribunal in the case of Manoj Kumar Mishra Vs. The Director of Estates, O.A.No.408 of 1996 & 13 others cases dated 4.11.1996 wherein on an exhaustive consideration of the background and the authorities, the Division Bench declined to order consideration of regularisation of the quarter in the case of those applicants who do not strictly fall

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within the provisions of the OM dated 13.4.1989 (Annexure-K). The Division Bench also refused to direct consideration of relaxation of the allotment rules under SR 317-B-25. The Division Bench cited the decision of Shiv Sagar Tiwari Vs. Union of India & others, (1997) 1 SCC 444 and in particular Kehar Singh's case wherein on similar facts the Apex Court held "In any case since he got employment more than one year after the death of the original allottee he is not entitled to the transfer of the house in his name". The Hon'ble Supreme Court went to the extent of saying that they would like to review all those stray cases wherein the regularisation was given by the Apex Court itself where the appointment was secured more than 12 months after the death of the breadwinner. This review was directed by the Supreme Court to bring them in line with Kehar Singh's case. I have independently considered this issue in the case of Mrs. Sudha D. Nair Vs. Union of India through Secretary, Ministry of Urban Affairs and Employment & others, O.A. No. 1486 of 1996 decided on 2.7.1997; when this Division Bench case was not cited before me; and have held that the impugned order of eviction does not call for any judicial interference.

4. For the reasons stated above, I have no other alternative except to dismiss this Original Application and refuse to interfere with Annexure-B dated 15.10.96. In accordance with the decision of the Hon'ble Supreme Court in the case of State of Orissa and others Vs. Sadasiva Mohanty, 1997 SCC(L&S) 780=(1997)3 SCC 211 I also do not find any justification to accede to the prayer of the applicant for the charging of normal rent. The Apex

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Court has held that where there is a case of over stay
consequence of charging penal rent will ensue. The
Original Application is dismissed. No costs.

Somasundaram
(N. Sahu)
Member (A)

rkv.