

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 233896
and
M.A. No. 2234/96

New Delhi this the 2nd day of APRIL 1997.

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

1. Mrs. Elizaath Zachariah
Staff Nurse
Safdarjung Hospital (ICCU)
New Delhi.

2. Mrs. Aleyamma Chacko
Retd. Assistant Nursing Supdt.,
Qr.No. 3, Block No. 117
Sector 1, Saket,
Pushp Vihar, M.B. Road,
New Delhi

Applicants

(By Advocate: Shri R.K. Shukla)
Shri V.S.R. Krishna)

vs

Union of India,

1. The Secretary
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi.

2. The Medical Superintendent,
Safdarjung Hospital,
New Delhi.

3. The Estate Officer,
C/o The Medical Superintendent,
Sardarjung Hospital,
New Delhi.

Respondents

(By Advocate: Shri B. Lall)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

This petition has come up for final hearing today. The petitioner in this case is challenging the order of the Estate Officer dated 21.7.1996 and 11.10.1996 by which the adhoc allotment given to her has been cancelled and the representation filed against also have been rejected. The petition had

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initially come up for hearing on 4.11.1996, and on the basis of the status quo order passed on the said same day, the petitioner and her daughter petitioner No. 2 continued to occupy the said quarters till date.

2. The short question involved in this case is whether petitioner No. 2 is entitled to continue with the ad hoc allotment after retirement of petitioner No. 1 for the purpose of giving shelter to her mother. The petitioners claim that in accordance with the present policy of the respondents, the married daughters have also been arrayed in the list of dependents of the retired Government personnel, eligible for ad hoc allotment, provided the said married daughter is the only person who is prepared to maintain the retired Government servant, and sons are not in a position to do so. There is also an undertaking on behalf of the petitioner No. 2 which is available in the file in fulfilment of the above said condition, and the affidavit filed along with it indicates that petitioner No. 2 is entitled to ad hoc allotment of the quarter which she has been occupying alongwith her mother and regularization of the same in order to maintain her retired mother who has been living alongwith her. It is also her case that no HRA have been paid to Petitioner No. 2 ever since she has been living with her mother from the time when the quarter was allotted to her mother where she has been staying alongwith her mother..

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3. The respondents in their counter affidavit stated that the petitioners are not entitled to retain the quarters on the grounds that two sons are living in separate quarters which have been allotted to their father viz., the husband of the petitioner No. 1, and the said quarters were occupied by the sons after their father was retired. The two sons and their families got the said accommodation after the retirement of the father who is still living alongwith them in a two room accommodation. It is an admitted fact that the present accommodation was allotted to petitioner No. 1 viz., the mother, only after the accommodation was regularised in the name of her sons and these facts were known to the respondents when they allotted the quarters at Safdarjung Hospital earmarked for the Nursing Staff, as both the petitioners viz., the mother and the daughter were both Nursing personnel working, in the same hospital. It would not be proper for the respondents now to state that the sons of Petitioner No. 1 has got regularised in their name the quarters which their father is occupying after his retirement.

4. The contentions of the respondents viz., the sons are given accomodation to Petitioner No. 1 after her retirement, is not tenable and the Petitioner No. 2 has given an undertaking alongwith an affidavit that none of the sons are in a position to give accommodation to Petitioner No. 1 and she is willing to accommodate her mother even though she is a married daughter.

5. The petitioners have relied upon a decision of the Hon'ble Supreme Court in the matter of Savita Samvedi (Ms.) and Anr. Vs. Union of India reported in (1996) 2 SCC 380. The Division Bench of the Hon'ble Supreme Court in the said case noticed that the non-allotment of the quarters in such circumstances to the married daughters would suffer from gender discrimination and the circumstances available in the present case is almost identical. Relying on the said decision, we do not hesitate to allow this O.A. and direct the respondents to declare that the petitioner No. 2 is eligible to retain the quarter in accordance with the rules. Since the petitioners are already in occupation, no further direction is required and it shall be only stated that the occupation of the said quarters shall be deemed to be in accordance with the rules. Accordingly, the impugned orders dated 31.7.1996 and 11.10.1996 are quashed and no order as to costs.

(Dr. Jose P. Verghese)
Vice Chairman (J)

Mittal