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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH .

OA No.364/1996

New Delhi, this 31<sup>st</sup> day of May, 1996

Hon'ble Shri B.K. Singh, Member(A)

Shri Chetan Singh  
713, LR Complex, New Delhi .. Applicant  
(By Shri D.R. Gupta, Advocate)

Vs.

1. Director of Estates  
Nirman Bhavan, New Delhi  
2. Executive Engineer  
ECD I, CPWD, New Delhi .. Respondents  
(By Shri B. Lal, Advocate)

ORDER

The applicant is aggrieved by letter dated 30.1.96 (Annexure A-1). The admitted facts are that late Shri Bhagmal Singh, applicant's father was allotted a General Pool accommodation No.713, Lodi Road Complex by R-1 while he was in Government service. The applicant's father expired in service on 15.8.94 and allotment of the quarter was cancelled w.e.f. 15.8.85 after allowing 12 months permissible limit under the allotment rules by letter dated 30.1.96 (Annexure R/1 to the reply). The applicant was appointed on compassionate ground belatedly though he applied for the same just after the death of his father. He was granted compassionate appointment more than after a period of 12 months from the date of death of his father and as such the respondents went

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strictly by the rules and felt that the request was not covered under the existing policy guidelines contained in OM No.12035(14)/82-Pol.II dated 13.4.89 (Annexure R-3) and accordingly rejected his request (Annexure R-2). The respondents initiated eviction proceedings under PPE Act, 1971 and accordingly a show cause notice was issued. An interim order was passed on 23.2.96, which has continued since then. The reliefs sought for in this OA are:

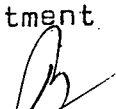
- (a) To set aside and quash the letter dated 30.1.96; and
- (b) To direct R-1 to regularise the impugned quarter in the name of the applicant on payment of normal licence fee.

2. On notice, the respondents filed their reply contesting the application and grant of reliefs prayed for. Heard the learned counsel for the parties.

3. It is admitted by the rival parties that the applicant has now been given compassionate appointment as LDC in place of his father and the fact that, the family is in indigent circumstances is <sup>proved by</sup> the grant of the said appointment. The short question to be decided now is regarding regularisation of the quarter. It is not disputed that the family has remained in the quarter and the instructions on the subject are clear that if the compassionate appointment is given within a year of the death, the quarter can be regularised in the name of the dependent, who was sharing the accommodation. The learned counsel

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for the applicant admitted that the applicant has been given compassionate appointment after more than a year after the death of his father. but he vehemently argued that it was not the fault of the applicant and the law laid down by the Hon'ble Supreme Court is that if the department/Ministry is convinced that it is a fit case for compassionate appointment, this must be granted immediately to provide succour to the indigent family. The letters placed on record go to show that the applicant had been pursuing the matter vigorously for grant of compassionate appointment from day one after the death of his father. The learned counsel for the applicant relied on the judgements given by the Tribunal in OA 237/95 dated 21.12.95 and OA 2139/95 dated 12.4.96. He also cited the case of Pinki Rani Vs. UOI 1987(2)ATLT p.301 wherein the operative portion of the judgement indicates that Ms. Pinki Rani was minor and she was given the compassionate appointment after 7 years when she became major. Once the compassionate appointment was granted, the Tribunal did pass an order of regularisation of the quarter in her name. The ruling of the Hon'ble Supreme Court in case of Phoolwati Vs. UOI AIR 1991 SC p.469 was also relied in this connection, wherein order was passed for grant of compassionate appointment and also for regularisation of the quarter.




4. The learned counsel for the respondents placed reliance on the orders of the Hon'ble Supreme Court in a large number of cases in which eviction orders were passed and that in some cases the applicants were directed to approach the Directorate of Estates for reconsideration. It is admitted by the learned counsel for the applicant that the Hon'ble Supreme Court in a public litigation petition filed by Shri Shiv Sagar Tiwari has passed orders in case of 391 unauthorised occupants but there is no such order in the case of the applicant here. Presumably, the applicant was not declared an unauthorised occupant and as such his name was not included in the list of 391 persons. This being so, the reliance on the citation of Pinki Rani Vs. UOI holds good. There is another case where the Hon'ble Supreme Court has allowed retainment of the grade on payment of normal licence fee for a period of 2 years in case of an indigent family.
5. The learned counsel for the respondents cited the case of Kehar Singh, in which the Hon'ble Supreme Court passed an order to the effect that he may make representation to the Directorate of Estate who may dispose of the representation in accordance with rules within two weeks.
6. The learned counsel for the applicant also relied on the case of Smt. Pushpa Aggarwal Vs. UOI decided by the DB of Principal Bench of this Tribunal consisting of Hon'ble Chairman Justice Shri V.S. Malimath and Shri P.C. Jain. In this also the Tribunal directed immediate compassionate appointment and also regularisation of the quarter. In a similar case, of Shri S.K. Mitra Vs. Director of Printing in OA 2366/92 following the decision of the Hon'ble Supreme Court in Shipra Bose's case, the Tribunal directed the

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respondents to permit the applicant to retain the quarter for a period of 2 years on payment of normal licence fee. He concluded his argument by saying that the applicant's case is a deserving one and it was incumbent on the respondents to give him appointment immediately and also to regularise the quarter in his name, as the delay was not on the part of the applicant. The delay was on the part of the respondents to give him compassionate appointment after a period of 12 months from the date of death of his father.

7. In view of the various judgements of the Tribunal cited above, it is directed that the quarter in occupation of the applicant be regularised in his name. The respondents will charge normal licence fee for one year from the date of death of his father and market rent beyond that period till the date of regularisation.

8. With the above observations, the OA is disposed of but without any order as to costs.

  
(B.K. SINGH)  
Member(A)