

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.461/96

(6)

New Delhi, this the 11th day of July, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

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| 1. Shri Chander Pal,
s/o Shri Arjun Ram,
E-253, Kidwai Nagar,
New Delhi. | 2. Shri Arjun Ram,
s/o late Sh. Goodhra,
r/o E-253, Kidwai Nagar, N. Delhi
..... Applicants |
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By Advocate: Shri B. Krishan

Vs.

1. Director,
Directorate of Estates,
4th Floor, C Wing,
Nirman Bhawan,
New Delhi.

2. The Estate Officer,
Directorate of Estates,
4th Floor, B Wing,
Nirman Bhawan,
New Delhi.

... Respondents

By Advocate: Shri M.K. Gupta

O R D E R (ORAL)

This application has been filed by the applicant being aggrieved that respondent No.1 has failed to regularise the allotment of the premises bearing No.E-253, Kidwai Nagar, New Delhi in his name, although according to him he satisfies all the provisions of the rules. In the meantime another impugned order dated 7.2.96, which has been passed under section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 ordering eviction of the applicant's father, who was originally allotted the quarter, has been stayed by Tribunal's order dated 6.3.96 which has been continued from time to time.

2. The brief facts of the case are that the applicant's father, who was working in the Central Govt. Health Scheme under the Ministry of Health and Family Welfare, ^{was allotted the quarter.} He has since retired from service on 30.6.94. The applicant was appointed by the Ministry of Health and Family Welfare as a Peon on 7.7.86. The applicant states that he had submitted an application for regularisation of the allotment of the afore-said quarter in his name vide application dated 22.9.94 (Annexure A-3). He submits that no reply had been given to this application and as mentioned above, in the meantime the allotment of the quarter to the father had been cancelled and an eviction order passed by the respondents.

3. Shri B. Krishan, learned counsel for the applicant submits that the applicant ^{No.1} has been residing with ^{his} father for the last three years. He further submits that his HRA has not been deducted only for the month of July, 1991 and that too inadvertently by the office i.e. Ministry of Health and Family Welfare. He submits that subsequently the office itself recovered the amount of HRA due on the quarter from the applicant in August, 1995. In the circumstances, the learned counsel submits that as he fulfils the conditions for regularisation of the quarter in his name, a suitable direction may be given to the respondents to do so.

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4. Shri M.K. Gupta, learned counsel for the respondents has submitted that ^{Pr} there is no dispute that the applicant has, in fact, been staying in the quarter with his father, who has since retired from the Govt. service, and is entitled to the same type of quarter. He has submitted that for the period of one month the applicant wrongly withdrew the HRA. Later in order to become eligible for ad hoc allotment/regularisation in accordance with the rules, the applicant got the HRA for July, 1991 deducted from his pay for August, 1995. Therefore, he submits that strictly speaking the applicant has failed to fulfil the conditions prescribed under the rules and hence his request had been rejected and he had been informed accordingly by respondent No.1 by letter dated 16.1.96. The receipt of this letter, however, has been denied by the learned counsel for the applicant.

5. I have carefully considered the arguments of both the learned counsel for the parties and the record.

6. The relevant rules for allotment on ad hoc basis/regularisation provides that when a Govt. servant, who is an allottee of General Pool accommodation, retires from Govt. service, his/her son, unmarried daughter or wife or husband, as the case may be, can be, allotted accommodation from the General Pool on ad hoc basis, provided the said relation is

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a Govt. servant and is eligible for allotment of accommodation in General Pool and had been continuously residing with the retiring Govt. servant for atleast three years immediately preceeding the date of his/her retirement. The respondents have admitted that the applicant is entitled for General Pool Type 'A' accommodation. Their only objection seems to be that he had not drawn the HRA only since August, 1991 whereas he should have not drawn the HRA also for the month of July, 1991. It is, however, not disputed that the amount of HRA paid to the applicant for the month of July, 1991 has since been recovered by the office from the ^{applicant's} pay of August, 1991. It is seen that the respondents have nowhere alleged that the applicant had wilfully or fraudulently drawn the HRA for the month of July, 1991 and the learned counsel for the applicant has submitted that this had been inadvertently ^{for one month} paid by the office to the applicant. It is also not disputed that the applicant fulfils all the other eligibility conditions as laid down in the rules for allotment/regularisation of the quarter No.E-253, Kidwai Nagar, New Delhi.

7. In the facts and circumstances of the case, the impugned order dated 16.1.96 (Annexure R-1) rejecting the applicant's request for regularisation of the said quarter in his name is quashed and set aside. The respondents

are directed to pass a fresh order in terms of the relevant rules/instructions for allotment/regularisation of the quarter within one month from the date of receipt of a copy of this order treating the applicant as fulfilling the eligibility conditions prescribed under the rules, including the deduction of HRA for the month of July, 1991.

8. Accordingly, the impugned order of eviction dated 7.2.96 is also quashed and set aside. Interim orders dated 6.3.96 are also vacated.

9. O.A. is disposed of as above. No costs.

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

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