

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.546/1996

New Delhi, this 7th day of June 1996

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

Sunil Kumar Lochab
891, S-IV, R.K. Puram
New Delhi

.. Applicant

(By Mrs. Meera Chhibber, Advocate)

Vs.

Union of India,

1. Executive Engineer (E) Dn. VI
CPWD, Vidyut Bhavan, New Delhi

2. Supdt. Engineer, Circle III
MSO Building, IP Estate, N.Delhi

3. Director of Estates
Nirman Bhavan, New Delhi .. Respondents

(By Mrs. Protima K. Gupta, Advocate)

ORDER

The applicant is aggrieved by non-regularisation of the quarter in his name and the order dated 4.3.96 (Annexure I) of the respondents directing him to vacate the quarter within 15 days, failing which he was threatened to be evicted by force. The brief facts of the case are these.

2. The father of the applicant was employed in the CPWD, who died on 27.11.93 in harness, leaving behind his wife, daughter and son. In January, 1994, the applicant applied for compassionate appointment in place of his father as LDC which was duly recommended by the concerned officer, vide Annexure P-II of the paper book. He was offered a post of Khalasi (Group D) by order dated 12.10.94 (Annexure P-I). Though the offer was given within one year, the

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applicant did not join the post but persisted for the post of LDC. The matter was reconsidered. He appeared for an interview and after being considered suitable he was given appointment as LDC by order dated 13.2.95 (Annexure- R-V).

3. It is admitted by both the parties that the applicant has been living with his father right from his childhood and even after the death he continued to live in that quarter. It is also admitted that he had applied for regularisation/ ad hoc allotment of the quarter and the same was duly forwarded by the applicant's office (Annexure R-VI). It is admitted that he was not drawing HRA and a certificate to this effect was also issued (Annexure R-VII). He was charged market rent of Rs.6599/- and he deposited the same by receipt dated 6.4.95 (Annexure R-VIII).

4. The reliefs sought for by the applicant are to quash the order dated 4.3.96 and to regularise the quarter in his name.

5. On notice, the respondents filed the reply contesting the application and the grant of reliefs prayed for. Heard the learned counsel for the parties and perused the records of the case.

6. There is no dispute that the applicant was granted Group 'D' post within one year but he did not join because once he joined that post he would have consumed his right making him ineligible to claim the post of LDC on compassionate ground again. It is also true that he was not entitled for regularisation of the quarter as a Group 'D' employee. Knowing this, he persisted for appointment as LDC and subsequently he was considered suitable and given the offer appointment which he accepted and joined in pursuance thereof. By this appointment, he was made eligible for regularisation.

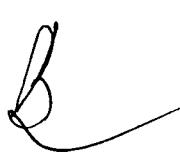
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of the quarter in which he was living with his father.

7. In view of the various judgements of the Hon'ble Supreme Court - Phoolwati Vs. UOI AIR 1991- S.C.P.469 & Shipra Bose & Anr. Vs. UOI etc. - if a ward is appointed on compassionate basis and is eligible for regularisation of the quarter as per his entitlement, the same should be regularised. The ratio of these judgements has been followed in the case of Smt. Pushpa Aggarwal Vs. UOI & Ors. 1(1993) GS(CAT)3(P8) decided by the Principal Bench comprising Justice V.S. Malimath and Shri P.C. Jain. The same view was adopted in case of S.K. Mishra Vs. Director of Printing in OA 2366/92. Following the ratio of judgement of Shipra Bose's case, this Tribunal in case of Pinki Rani Vs. UOI 1987(2)ATLT P.301 allowed retention of the quarter for a period of 7 years on payment of normal rent since she was minor when her father died and she was given compassionate appointment when she became ^{the} major. However the facts of Pinki Rani's case are distinguishable from the present case. The applicant was eligible. He was offered a group D post within one year, but he declined the offer and he was subsequently considered for Group 'C' post. He was offered and he accepted the same and joined in pursuance of that offer. This being so, he will be entitled to retain the house on normal rent for a period of one year and at market rate for period exceeding one year till the house is regularised in his name on payment of market rate. The respondents are directed to regularise the house in his name but charge market rent beyond the period of one year till the date of regularisation.

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

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(B.K. Singh)
Member (A)