

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./XXX. No. 809/1996

Decided on: 4/12/96

Shri Phool Singh & AnotherApplicant(s)

(By ~~SHRI~~ Mrs. Meera Chhibber Advocate)

Versus

U.O.I. & AnotherRespondent(s)

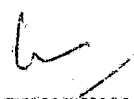
Ms. Pushap Gupta, proxy counsel for
(By Shri M.M. Sudan Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI T.N. BHAT, MEMBER (J)

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?


(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 809 of 1996

New Delhi this the 4th day of December, 1996

HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)
HON'BLE SHRI T.N. BHAT, MEMBER (J)

1. Phool Singh
S/o Late Shri Ram Swarup,
R/o 53-A, Pushpa Vihar,
Sector-4,
New Delhi-110 017.
2. Smt. Javitri
W/o Late Shri Ram Swarup,
R/o 53-A, Pushpa Vihar,
Sector-4,
New Delhi-110 017. ..Applicants

By Advocate Mrs. Meera Chhibber

Versus

1. Union of India
through Secretary,
Ministry of Urban Affairs
and Development,
Nirman Bhawan,
New Delhi.
2. The Director,
Directorate of Estates,
Nirman Bhawan,
New Delhi. ..Respondents

Ms. Pushap Gupta, proxy counsel for Shri M.M.
Sudan, Counsel for the respondents.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

The applicants in this case are the son
and widow of Late Shri Ram Swarup, who died in
harness on 20.5.1993. The applicants are aggrieved
by the order of the respondents by which they

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were directed to vacate the quarter which was originally allotted to Late Shri Ram Swarup and was under their occupation since his death. The applicants' case is that the respondents have considered the request of the applicant No.1 for compassionate appointment and he was actually appointed in the post of Lower Division Clerk (LDC) on 5.7.1995. The applicants also submit that the respondents have already kept one post of LDC vacant to facilitate the appointment of applicant No.1 on compassionate grounds. In this connection, they have annexed respondents' letter dated 22.2.1994, Annexure P-2. The applicants contend that their case is fully covered by the provisions of SR 317-B (25) and consequent on his appointment on the post which was reserved for applicant No.1 as early as 22.2.1994, i.e., within one year of the death of Late Shri Ram Swarup, they are entitled to have the accommodation regularised in favour of the applicant No.1. In the light of this, they contend that the order of eviction passed by the respondents is illegal and, therefore, they have prayed for the quashing of the impugned orders and also for a direction to the respondents to regularise the quarter in favour of the applicant No.1.

2. The respondents contend that since the applicant No.1 was given appointment on compassionate grounds after more than one year, the said

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accommodation could not be regularised and the case of the applicants is not covered under the provisions of SR 317-B(25) and OM dated 13.7.1981. Since the applicants have retained the accommodation beyond the permissible period, the respondents had to treat this case as one of unauthorised occupation and over-stayal and, therefore, they have sought to justify the action taken under the impugned orders.

3. The learned counsel for the applicant relies on the judgment of this Tribunal in Bijendra Singh Vs. U.O.I. & Another - OA No. 237 of 1995

The learned counsel for the respondents submit and also certain other judgments. / the Supreme Court had ordered regularisation only in those cases which were covered under the provisions of SR 317-B(25). Since in the instant case, the applicant No.1 secured his appointment on compassionate grounds after 2 years, he will not be entitled for regularisation of the quarter and, therefore, as submitted, the applicants have no case.

4. We have heard the learned counsel for the parties and have perused the records.

5. Admittedly, the applicant No.1 secured appointment on compassionate grounds after 2 years from the date of the death of the deceased Government employee. The contention of the applicants' that some communication was made about the reservation (applicant No.1) of the post about him/as early as in February,

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1994, does not alter the fact that the dependent did not secure the employment within a period of 12 months after the death of the Government servant. Even if such a reservation of post had been made, this by itself advances neither the right of the applicants' for compassionate appointment nor their claim for regularisation of the accommodation de hors the rules. We find that in a similar matter in respect of one Shri Kehar Singh which was also included in the batch of Writ Petitions before the Supreme Court in Shiv Sagar Tiwari VS. Union of India & Others (Writ Petition (Civil) No. 585 of 1994 decided on 12.10.1995) and by order dated 12.12.1995 the Apex Court had directed the case to be dealt with in accordance with the rules and accordingly directed the family members of Kehar Singh to vacate the premises by the prescribed date. We also find that similar matters came up before the Tribunal in a batch of applications with the leading OA 408 of 1996 - Manoj Kumar Mishra Vs. the Director of Estates and Another decided on 4.11.1996. In the aforesaid cases also the prayer for regularisation of the accommodation in cases of compassionate appointment secured after a gap of 12 months was not accepted and the applications were rejected. Regularisation of accommodation in respect of appointments secured on compassionate

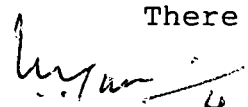
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grounds within a period of 12 months from the date of the death of Government employee has been provided as a special concession in the rules and it cannot confer a right for regularisation even in cases where such appointment has been secured after a gap of one year. On the basis of the existing policy, this concession has been granted by the Government perhaps due to the consideration that the family of the deceased employee can be allowed retention of Government accommodation for a period of 12 months at most and within this period if the dependent of the deceased Government servant secures an appointment on compassionate grounds, he or she could be extended the concession of providing an ad hoc allotment/regularisation of the accommodation subject to the appointee being found otherwise eligible. If similar consideration is to be given in cases of appointment taken beyond the period of 12 months, then this will lead to unfair discrimination against other regular employees waiting for normal allotment in their turn.

6. Taking all the above facts into account, we find that there is no merit in the application. The application is accordingly rejected.

There shall be no order as to costs.


(T.N. BHATA)
MEMBER (J)


(K. MUTHUKUMAR)
MEMBER (A)

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