

Central Administrative Tribunal
Principal Bench

O.A.No.2355/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 13th day of August, 1998



1. Shri M.D.Valecha
s/o late Shri Gulab Rai
aged 59 years
retd. Private Secretary
Intelligence Bureau
M/o Home Affairs
Govt. of India
North Block
New Delhi - 1 and
r/o G-166, Moti Bagh II
(Type IV)
New Delhi - 110 022.
 2. Miss Mooni Valech
d/o Shri M.D.Valecha
P.A. Grade II, Intelligence Bureau
M/o Home Affairs
Govt. of India
North Block, New Delhi -1 and
r/o G-166, Moti Bagh II
(Type IV)
New Delhi - 110 022.
- Applicants

(By Shri R.S.Bedi with Shri S.P.Mittal and Shri
S.Balakrishnan, Advocates)

Vs.

1. Union of India through
Secretary to the Govt. of India
M/o Home Affairs
North Block
New Delhi - 110 001.
 2. Directorate of Estates
Govt. of India
Nirman Bhawan
New Delhi - 3.
 3. Director
Intelligence Bureau
Ministry of Home Affairs
Govt. of India, North Block
New Delhi - 1.
- ... Respondents
- (By Shri S.K.Gupta, Advocate)

O R D E R

Applicant No.1 retired from Intelligence Bureau
(IB) on 30.6.1996. During service he was allotted
Government accommodation G-166 (Type IV), Moti Bagh-II,
New Delhi. His daughter, Applicant No.2 also joined the

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service of Intelligence Bureau, Respondent No.3 on 27.9.1996 and claims to have shared the aforesaid accommodation allotted to her father. She has also not drawn House Rent Allowance (HRA). On appointment, she applied for regularisation on ad-hoc allotment for the House allotted to her father. The applicant was recommended by Respondent No.3, I.B. Simultaneously a representation was also made by Applicant No.1 to the Directorate of Estates. However, the Directorate of Estates issued a notice, Annexure A-1 to Applicant No.1 to show cause as to why he should not be evicted. Thereafter the Directorate of Estates passed the impugned order of eviction, Annexure A2. Now the applicants have come before the Tribunal in these proceedings with a prayer to direct the respondents not to carry out the eviction order, Annexure-A2 and to issue directions to them to regularise the said accommodation in favour of Applicant No.2 till such time that she is allotted Government accommodation in her turn.



2. The case of the applicants is that but for certain delays caused by character verification and administrative formalities, Applicant No.2 would have got her appointment before the retirement of Applicant No.1 from service. Secondly, it is contended that rules provide for such regularisation/ad-hoc allotment in respect of wards of deceased Government employees even on obtaining the government employment within one year after the death of the Government employee. On that principle wards of a retiring Government servants would also be entitled if the employment is obtained within one year of the retirement of the original allottee. Finally, it has been contended that as per Government of India

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instructions issued vide OM No.12035(7)/79-POL.II dated 1.5.1981 when a Government servant who is an allottee of General Pool accommodation retires from service, his son may be allotted accommodation from the general pool on ad hoc basis provided the said relation is a Government servant otherwise eligible for such allotment of accommodation in general pool and has been continuously residing with the retiring Government servant and forgoing the HRA before three years prior to his date of retirement. The applicants say that their case is covered by these instructions, issued in terms of SR-317. B-25 of the Allotment of Residences (General Pool) in Delhi Rules of 1963. (16)

3. I have heard the learned counsel for the parties and perused the pleadings on record. A common reply has been filed by Respondent No.1 and 3 and another by Respondent No.2. Respondent No.1 and 3 have only stated about dates of appointment of Applicant No.2 and about forwarding of recommendations by the Intelligence Bureau, her application, for regularisation to Respondent No.2, i.e., Directorate of Estates have been told that the impugned orders are rightly passed as Applicant No.2 is not available for the benefit of regularisation on ad hoc appointment in Government service after the retirement of Applicant No.1, her father.

4. There is clearly no merit whatsoever in the case of the applicants. Government of India orders reflected in the OMs dated 1.5.1981 and 19.11.1987 quoted in Swamy's Compilation of Fundamental Rules (Page 380-381 edition 1995) clearly show that the concession of ad hoc allotment would not be available in the case of a

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dependent who secures employment after the date of retirement of the parent. The position is that dependent or relation of Government servant should be eligible for allotment of Government residence on the date of retirement of the allottee and the concession is not available even when the dependent secures employment after the date of retirement but during the period of re-employment of the parent. The learned counsel for the applicant has sought to rely on the judgment of this Tribunal in 2515/92 decided on 12.2.1993 Shri Albis Tirkey and Another Vs. Union of India and Another. I find that this order is of no avail to the case of the applicants since the allottee in that case had retired on 13.4.1989 while his son was already in service w.e.f. 22.3.1982.

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5. The contention of the applicants that Applicant No.2 would have secured employment prior to the retirement of Applicant No.1 but for the delay caused due to character verification, etc., is also not valid. We are here concerned with the actual date of appointment and such appointment cannot be predicated on any presumption. As respondents No.1 and 3 have stated, character verification is a prerequisite of appointment of any Government servant. Therefore it cannot be said that Applicant No.2 was deliberately kept out of service in order to deprive her the benefit of this concession.

6. The argument that applicants are entitled to the benefit on the analogy of concession granted to the wards who get compassionate appointment when the parent dies in harness, is irrelevant. When a Government servant dies in service the case of his family falls in a different

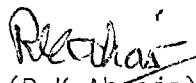
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category. If he had survived upto his date of superannuation his ward would have had an opportunity to compete for Government job. This opportunity is denied because of the premature death of the Government servant. In any case the special dispensation for compassionate appointment as well as the concession in time allowed for ad hoc allotment of accommodation is by way of a welfare measure arrived at ameliorating the adversity in which the family of the deceased Government employee is placed. The case of the Government servants who has gone through his allotted period of Government service is on an entirely different footing.

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7. In the light of the above discussion, I find no merit in this application. The OA is dismissed. No costs.


(R.K. Ahooja)
Member(A)

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