

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2405 of 1997

New Delhi, dated this the 5th June, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Shri Ganesh Upadhyay,
S/o Shri R. Padhyay,
Qr. No. 1018, Sector VIII,
R.K. Puram,
New Delhi-110022.

..... APPLICANT

(By Advocate: Shri A.K. Behera)

Versus

1. Union of India through
the Secretary
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. Secretary,
Ministry of Non-Conventional Energy
Sources,
CGO Complex, New Delhi.

3. Director of Estates,
Nirman Bhawan,
New Delhi.

..... RESPONDENTS

(By Advocate: Shri Harvir Singh proxy
for Mrs. P.K. Gupta)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant prays for regularisation of Qr.
No.1018, Sector VIII, R.K. Puram, New Delhi in
his name w.e.f. 1.6.97 and further prays that he
may be permitted to pay normal license fee for the
said quarter from that date.

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2. I have heard Shri A.K. Behera for applicant and Shri Harvir Singh proxy counsel for Mrs. P.K. Gupta for respondents who was assisted by Departmental Representative, Shri Tek Chand, Asst. Director of Estates Office.

3. It is not denied that applicant was appointed as S.S.O. Gr.II (Rs.2200-4000) and was transferred to Delhi in Nov. 92 where he resided with his father who was Asst. Director, I.B. and was the allottee of Qr. No. 1018, Sector VIII, R.K. Puram, New Delhi. It is also not denied that applicant fulfils the other conditionss for out of turn allotment/regularisation of accommodation consequent to the retirement or superannuation of his father on 31.1.97.

4. Respondents in their reply however, contend that applicant is not entitledd to the out of turn regularisation of the quarter allotted to his father which is Type IV, because he was not drawing the basic pay of Rs.3000/- p.m. as per the provisions prevalent during the year 1994-95 extended upto 31.5.97.

5. Shri Behera however argues that this stand of the respondents, is only for cases for regular allotment and has no application to the cases of out of turn allotment/regularisation, like the present one which has to be governed by Directorate of Estates, O.M. dated 19.11.87 and 17.12.91, (copy on record) wherein entitlement has to be reckoned from the date of actual retirement of the ad hoc allottee's father. Shri Behera contends that as applicant's father retired on 31.1.97, that is the operative date on which applicant's salary has to be determined and as applicant was drawing the basic pay in excess of Rs.3000/- on 31.1.97 he is entitled to Type IV Special and as ad hoc allotment/regularisation is made one type below as per instructions, applicant is entitled to a Type IV quarter and is hence entitled to the regularisation of the Type IV quarter which was allotted to his father.

6. Shri Tek Chand who is present in the court does not challenge, these averments and confirms at the bar that the operative date in terms of Directorate of Estates O.M. dated

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19.11.87 and 17.12.91 is in fact the date of retirement of the allottee's father, which in the present case would be 31.1.97,

7. In this connection Shri Behera seeks to buttress his argument by stating that a reasonable interpretation of the aforesaid OMs dated 19.11.87 and 17.12.91 points to the date of retirement of applicant's father as being the operative date in such cases also because otherwise, if the applicant has not been in service before 1993, he would not have been entitled to out of turn regularisation of the quarter at all in terms of the aforesaid two OMs which would not have been the intention of the OMs.

8. In the light of Shri Tek Chand's confirmation at the bar that the operative date in such cases of out of turn allotment/ regularisation of accommodation is the date of retirement of the previous allottee the stand of the respondents in denying out of turn regularisation of Type IV quarter No.108, Sector VIII, R.K.Puram, New Delhi to applicant w.e.f. 1.6.97 cannot be sustained.

9. In the result this OA succeeds and is allowed to the extent that respondents are directed to regularise the aforesaid quarter in the name of the applicant w.e.f. 1.6.97 subject to payment of license fee as per rules. No costs.

Anil Chandra
(S.R.A DIGE)
VICE CHAIRMAN (A).

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