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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.**

HON. SHRI R.K. AHOOJA, MEMBER (A)

O.A. NO.571/1997

NEW DELHI, THIS 27 DAY OF AUGUST 1997.

1. A.K. BANERJEE

2. SUMIT KUMAR BANERJEE

both residents of:

Qr. No.634, Sector 12  
R.K. Puram,  
NEW DELHI-22.

..APPLICANTS

(By Advocate - Shri George Parackin)

VERSUS

Union of India, through  
the Director  
Directorate of Estates  
Nirman Bhawan  
NEW DELHI

...RESPONDENT

(By Advocate - Shri R.V. Sinha)

ORDER

The applicant No.1 had been in occupation of type II accommodation when he retired on 28.2.1995. His son, applicant No.2, qualified the SSC examination for Divisional Accountants/Auditors/UDC etc. and obtained appointment as UDC w.e.f. 31.8.1995. Thereafter he sought regularisation of the quarter allotted to his father in his name in terms of O.M. No.12029/l/74-Pol.II dated 5.7.1976 (Annexure E). The applicants are aggrieved that instead of regularising the quarter in favour of applicant No.2, the respondents have passed the eviction order dated 26.2.1997 (Annexure A). The applicants seek a direction that the quarter in question be regularised in favour of applicant No.2 and the impugned order of eviction be quashed.

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2. The respondents in their counter reply submit that the applicant No.2 having obtained government employment after the retirement of his father is not eligible for regularisation of the quarter. They submit that as per the O.M. No.12035(7)/79-Pol.-II dated 1.5.81 (R-1), when a government servant who is an allottee of the General Pool accommodation retires, his son, unmarried daughter or wife or husband, as the case may be, may be allotted accommodation on ad hoc basis provided the said relation is a government servant eligible for accommodation in General Pool. As applicant No.2 was not in government service on the date of retirement of his father, he is not eligible for regularisation of the quarter. Accordingly, his request cannot be acceded to.

3. I have heard the counsel on both sides and also gone through the pleadings on record. Shri George Parackin, 1d. counsel for the applicants, argued that it is wrong on the part of the respondents to claim that the allotment of accommodation in the name of the son/daughter etc. as per O.M. of 5.7.1976 (supra) has been superceded by the order dated 1.5.81 (R-1). According to the O.M. dated 5.7.76 (Annexure E), para III(iv), if the employment is secured by the ward within a period of 10 months of the retirement of the allottee or 12 months of death of the allottee, ad hoc allotment can be considered. The relevant paragraph reads as follows:-

III(iv) A request for ad hoc allotment to an eligible dependent may be considered in case the dependant gets an employment in an eligible office even after the retirement/death of the officer provided such an appointment is secured within a period of ten months after the retirement of the officer or

twelve months after the death of the officer and that the accommodation in occupation of the officer has not been vacated. Eviction in such cases may not however, be delayed on consideration that the dependent is likely to get an appointment."

4. The 1d. counsel submitted that while in case of the wards who are already in government service at the time of the retirement of the father, a requirement was laid down that they should have been residing with their father at least for six months prior to the latter's retirement. The 1981 O.M. increased this period from six months to preceding three years. Nothing has been stated in the O.M. of 1981 that the provision regarding ad hoc allotment to those joining service within 10 months of the retirement of the father has been cancelled. The 1d. counsel also pointed out that the provision regarding ad hoc allotment to such of the wards who have secured compassionate appointment within one year of the death of the father can still be continued and the latest amendment issued by the Government even provides for consideration in special cases wherein the government service has been secured even upto within 13 months. As regards the point taken by the respondents in their counter that they are duty bound by the directions of the Supreme Court in S.S. Tiwari's case that no out of turn allotment should be made, he submitted that this direction does not cover cases wherein ad hoc allotments are made on the basis of rules, and even otherwise the Government have passed a legislation whereby the eviction of persons who were given out of turn allotments has been stayed.

5. I have carefully considered the submissions of the 1d. counsel for the applicant but find no merit therein. The O.M. dated 1.5.1981 is in exercise of the powers conferred under S.R.317-B-25 of the Allotment

Residences (General pool in Delhi) Rules 1963 and relates to the eligibility of sons/daughters etc. of the retiring government official for allottees retiring on or after 7.11.1979. This O.M. therefore clearly supercedes the O.M. of 1976. As regards the argument that there is no mention of ad hoc allotment to children of government servants who die in service, the 1981 O.M. being related to the cases of those retiring, does not override the provisions of the 1976 O.M. in regard to compassionate appointment to which the ld. counsel for the applicant has referred. The applicants have mentioned some cases where ad hoc allotments were made as late as in 1991 where appointment had been secured much after the retirement of the original allottee. The respondents have conceded that but submitted that they are now barred from considering such ad hoc allotments in terms of the decision of the Hon'ble Supreme court in S.S. Tiwari Vs. UOI. I am in agreement with the ld. counsel for the respondents that we have to look at the eligibility of the applicant No.2 in terms of rules and the directions of the Supreme Court as in force.

6. In the facts and circumstances of the case, the applicant No.2 not being eligible for regularisation of the quarter, the O.A. is dismissed. No costs.

  
(R.K. AHOOJA)  
MEMBER (A)

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