

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A. No.184/98
M.A.No.2016/98
O.A. No.2355/97

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

New Delhi, this the 19th day of May, 1999

(29)

1. Shri M.D. Valecha
S/o Late Shri Gulab Rai
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 Valecha
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 Advocates: Shri S.P. Mittal with Shri R.S. Bedi and Shri P. Chopra)

Versus

1. Union of India through
Secretary to the Govt. of India
M/o Home Affairs
North Block, New Delhi -1
2. Directorate of Estates
Govt. of India
Nirman Bhawan, New Delhi
3. Director, Intelligence Bureau
Ministry of Home Affairs
Govt. of India
North Block, New Delhi-1

.... Respondents

(By Advocate: Shri S.K. Gupta)

O R D E R

The applicant No.1, who retired from Intelligence Bureau on 30.6.1996, came before the Tribunal in O.A. No.2355/97 aggrieved by the refusal of the respondents to regularise/giving ad-hoc allotment to his daughter applicant No.2 on the ground that the latter joined Govt. after the retirement of applicant No.1. The O.A. was dismissed by the order dated 13.8.1998. The applicants have now filed a Review Petition stating that there has

been an error apparent on the face of the record as the main contention advanced by them in their amended O.A. has been overlooked altogether in the above mentioned order of the Tribunal.

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2. I have heard the parties. The original O.A. had been filed on 1st October, 1997. By M.A. No.354/98 on 10th February, 1998 a prayer was made to amend the O.A. which was allowed. The amendment related to the additional contention of the applicant that as per Rule (iv) of the Allotment Rules dated 5.7.76 (copy at Annexure 8) wards of Govt. employees were entitled to ad-hoc allotment/regularisation on the basis of the quarter allotted to the retiree officer provided the ward had obtained Govt. appointment within a period of 10 months after the retirement of the original allottee. According to the applicants, the Directorate of Estates O.M. dated 1st May, 1981 on the same subject, changed the conditions only in respect of such dependents who had obtained Govt. appointment prior to the date of retirement of the allottee and not to those wards who obtained employment within 10 months of the retirement of the original allottee. Since applicant No.2 had obtained Govt. employment within three months of the retirement of applicant No.1, it was contended that she was eligible for out of turn allotment of Govt. accommodation.

3. The respondents who filed a reply have denied that there is any basis for review.

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4. While I do not consider that the conclusions of the Tribunal dated 13th August, 1998 require any change, nevertheless, I consider it proper that the point raised by the Review petitioners should be addressed since in the impugned order this has not been specifically dealt with.

(31)

5. The O.M. dated 5.7.76 (Annexure PP-2) reads as follows:-

"(i) The eligible dependent will be allotted accommodation one type below his/her entitlement, provided that in no case, except otherwise specified, allotment shall be made of a higher type of quarter than in occupation of the retired/deceased officer. Provided further that where the eligible officer is entitled to type II or any higher type of accommodation, he/she may be allotted accommodation in Type II on ad-hoc basis, even if the retired, deceased Government servant was occupying type I accommodation.

(ii) The quarter in occupation of the retired/deceased officer may be regularised in the name of son/daughter, provided he fulfills all the other conditions for ad-hoc allotment."

(iii) In all such cases, it is necessary that the eligible dependent should have been residing with the retired/deceased officer concerned for at least six months prior to the later's retirement/death and that he was not drawn any house rent allowance.

(iv) A request for ad-hoc allotment to an eligible dependent may be considered in case the dependent 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.

The relevant portion of O.M. dated 1.5.1981 reads as follows:-

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"In exercise of the powers conferred under S.R. 317-B-25 of the Allotment of Government Residences (General Pool In Delhi) Rules, 1963, the Central Government have decided that when a Government servant, who is an allottee of general pool accommodation, retires from service, his/her son, unmarried daughter or wife or husband, as the case may be, allotted accommodation from the General Pool on ad-hoc basis, provided the said relation is a Government servant and is eligible for allotment of accommodation in general pool accommodation and had been continuously residing with the retiring Government servant for at least three years immediately preceding the date of his/her retirement. In case, however, a person is appointed to Government service within a period of three years preceding the date of retirement or had been transferred to the place of posting of the retiring Government servant anytime, within the preceding three years, the date on which he was so appointed or transferred would be the date applicable for the purpose. This decision would cover cases of Government servants retiring on or after 7.11.1979."

(32)

6. It was contended by the learned counsel for the applicant that in the O.M. dated 1.5.81 stated above there is no mention of the category of those who had obtained employment within 10 months of the retirement of the original allottee. He also pointed out that the other category, namely, those obtaining Govt. employment within 10 months of the death of the original allottee have continued to be eligible and this clearly indicates that the O.M. dated 1.5.81 was dealing only with such wards who had obtained employment during the service period of the original allottee. It was also contended that no inference or implication can be made about category (iv) under the O.M. dated 5.7.76 since there is no specific mention of 1981 order superseding the 1976 order.

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7. The first line of the O.M. dated 1.5.81 states that "Central Government have decided that when a government servant retires from service his/her son unmarried daughter ... may be allotted accommodation ... provided" (emphasis supplied). Clearly this order covers all conditions of eligibility and not only of any one category. In the reply to the unamended O.A. the respondents had also annexed a copy of the Directorate of Estates clarification dated 9.11.87 (Annexure R-3), para (iii) of which reads as under:-

"(iii) Ad-hoc allotment to dependents who secure employment after the date of retirement but during the period of re-employment.

The concession of ad-hoc allotment would not be available in the case of a dependent who secures employment after the date of retirement of parent but during the period of re-employment."

8. The above clarification/decision sets the issue beyond any doubt. In other words the applicant could not claim regularisation on the basis of para (iv) of 1976 O.M. In view of the O.M. dated 1.5.1981 and the clarification thereon vide O.M. dated 5.5.87, I find no ground to alter my conclusions stated in the order dated 13.8.98. R.A. is, therefore, dismissed.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

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