

Central Administrative Tribunal
Principal Bench

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O.A.No. 2367/94

New Delhi, this the 16th Day of May, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

Kulwant Kaur
w/o late Sri Jaswant Singh
G-40, Meerdard Road,
Near Ranjit Hotel,
New Delhi.
(Mrs. Sarla Chandra, Advocate)

Applicant

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Union of India through

1. The Director of Printing,
Nirman Bhawan,
New Delhi.
2. The Manager,
Govt. of India Press,
Minto Road,
New Delhi.

Respondents

(Shri Madhav Panikar, Advocate)

JUDGEMENT (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The dispute in this case is regarding quarter No. G-40, Meerdard Road, New Delhi which was allotted to late Sri Jaswant Singh who died in harness on 9.8.91 while in service. The applicant applied for a compassionate appointment for her son namely Parminder Singh. The applicant earlier filed an O.A. No. 2291 of 1992 which was decided by the Principal Bench by the order dated 8th July, 1993. The Principal Bench considered the matter holding that

the compassionate appointment is not a matter of legal right but at the same time held that the case of the applicant may be considered for appointment on compassionate ground of her son namely Parminder Singh in her turn. The applicant, however, continues to occupy the aforesaid premises G-40, Meerdard Road, New Delhi even after one year of the death of the deceased employee which is permissible under O.M. dated 20th July, 1992 bearing No. 12035/1/92-POL.II.

In this original application, the applicant has assailed the order dated 17.11.1994 whereby the allotment of quarter aforesaid was cancelled w.e.f. 8th Sept., 1992 after allowing concessional period of six months but the applicant continues to be in unauthorised occupation of the aforesaid premises and exercised the powers conferred under Sub-sec. (1) of Sec. 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 to vacate the said quarter within 15 days.

The present application was filed on 29th Nov., 1994 and on 30th November, 1994 an interim direction was issued by

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the Principal Bench staying the operation of the impugned order aforesaid for a period of 14 days, that interim order is continued even today.

A notice was issued to the respondents who contested the application and stated that the applicant cannot retain the quarter as the allotment in favour of the deceased employee is stood cancelled after the requisite period of one year. The short reply filed by the respondents states that a notice has been issued to the applicant stating that according to provisions of SR-317-B-II(2)(iii) that the residence allotted to an officer can be retained by the deceased family only for one year.

Heard the learned counsel for the applicant at length. The contention of the applicant's counsel is that the applicant is a poor widow. The applicant in the application has not anywhere stated the strength of the family or the legal representatives surviving the deceased employee. The contention of the applicant is that the widow is getting the pension of Rs. 1100/- per month and that market rent of Rs. 2000/- p.m. is levied as recovery

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from the applicant for retention of the aforesaid quarter.

The learned counsel for the applicant also pressed that the quarter No. G-40, Meerdard Road, New Delhi be allowed to be retained by the applicant till her son Sh. Parminder Singh gets appointment on compassionate ground.

Magnanimity and mercy has their own limits. These cannot be extended in such a manner as to distort the rules to favour a particular person to give extra benefit to such person ignoring the claims of those who are standing in queue and waiting for their turn for years together in the Metropolitan city of Delhi. The question here is that the deceased employee died in harness in 1991 and the widow and his family continues to occupy the quarter and still wants to retain the same till her son is given compassionate appointment.

Annexure A-III shows that the wards of the deceased have employees been empanelled to be considered for compassionate appointment in their turn. This scheme has been drawn and the empanelment serial number has been given on the basis of the status of the family of the deceased employees after going into the comparative study of the financial and physical status of the family while framing the scheme.

In the earlier judgement, in the case of the applicant, the name of the applicant appears at serial No. 138. That decision was given by the Principal Bench on 8.7.1993 and almost two years have passed but the administration could not accommodate the applicant because there are other needy persons above him in the aforesaid panel/list.

The learned counsel for the applicant could not show any law on the point that a person aspiring for prospective employment can be allotted a quarter in advance to his appointment. She also could not show any law that after the death of the employee, the premises can be retained by the deceased family for unlimited period while by instructions to this effect under §R 317-B-II-(2) the residence allotted to an employee can be retained by the deceased family only for one year, after the death of the employee in harness.

I have also considered the case of the applicant from another angle. The Principal Bench who decided the case earlier in O.A. No. 2291 /92 already considered the matter in quite detail while giving direction to the respondents to re-consider the case of the applicant. It is observed that there are other needy persons in the list who need priority both in appointment and allotment. Some of them are not the

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recipient of the pension while the applicant is getting the pension atleast to the extent of Rs. 1100/- per month as admitted in the application itself. The order of the Principal Bench has, therefore, restricted the consideration for of the applicant/allotment and the respondents did not consider the case of the applicant on further priority basis ignoring the claims of other needy persons.

The learned counsel for the applicant also greatly stressed on the point that the applicants shall have to pay Rs. 2000/- per month as damages while she is getting a petty amount of Rs. 1100/- per month as pension. It is for the applicant to see. There are rules which govern the retention of the Govt. premises beyond the period allowed under the rules. It is because of the rules that the applicant is claiming the compassionate appointment. It is because of the rules that she has come for out of turn allotment. Therefore, the rules are the welfare measure for all the employees and cannot be seen only to the extent that the applicant may get an employment on compassionate ground in future point of time and till then the retention of the quarter be allowed. If the perception of the applicant's counsel is accepted then it will be more inequitable

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for those who are aspiring for allotment will not get their allotment in turn.

The case of the Phoolwati similarly placed widow of an employee of Govt. of India Press was considered by the Principal Bench where the relief for retention was not allowed till appointment of ward on compassionate ground but the Hon'ble Supreme Court on S.L.P. filed against that order in detail considered the matter and allowed the retention of the quarter only for a period of two years. In this case the applicant has already retained the government premises for four years.

In view of the above facts and circumstances, the impugned order issued by the respondents does not need for any interference and the O.A. is dismissed accordingly. Interim order is vacated.

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J.P. Sharma
(J.P. SHARMA)
MEMBER (J)