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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. NO. 638/1994

New Delhi this the 14th Day of September 1994 .

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

1. Shri B.K. Verma,
Retd. SS ,
Quarter No. B-25/3-C, Type II,
Kali Bari Marg,
New Delhi.

2. Shri Kishore Kumar
son of Shri B.K. Verma
Quarter No. B-25/C-C, Type II,
Kali Bari Marg,
New Delhi

... Applicants

(By Advocate: Shri A.K. Bharadwaj)

Vs.

Union of India

1. Through the Director General,
Dept. of Telecom,
Sanchar Bhawan,
New Delhi.

2. The Chief General Manager,
Northern Telecom. Region,
Kidwai Bhawan,
New Delhi.

3. The Estate Officer,
Office of the General Manager Maintenance,
Northern Telecom. Region,
Kidwai Bhawan,
New Delhi.

... Respondents

(By Advocate: Shri Madhav Panikar)

O R D E R

Hon'ble Shri J.P. Sharma

The Applicant No. 1 while in service in the Office of General Manager Maintenance as Section Supervisor under the supervision of Respondent No. 2 was allotted government accommodation No. B-25/3-C Type II in Kali Bari Marg, New Delhi. Applicant No. 1 retired on superannuation from the service on 31.1.1993. Applicant No. 2 has been working as a temporary Mazdoor

under Director, NOCC in the office of the Chief General Manager, NTR, New Delhi. On basis of the circular issued by the Dte. of Estates OM 22013(7)/1/Pol.II dated 13.7.1981 for allotment of a quarter or for ad hoc allotment/regularization of the accommodation allotted to his father, Applicant No. 1, but he has not been granted any allotment in spite of the fact that in terms of OM 12035(10)/84 Pol.II dated 17.4.1986 he is entitled for allotment of quarter in reserved quota as per 60 point roster. The applicant has not been favoured for the allotment of the quarter and a notice was issued on 17.2.1994 and on 18.3.1994 by the Estate Officer to Applicant No. 1 B.K. Verma, for vacation of the said allotted government quarter under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2. In this application the applicants have assailed the above notices and also the respondents be restrained from evicting the applicants from the said government accommodation. It is further prayed that the said government accommodation be regularised in the name of the Applicant No. 2.

3. A notice was issued to the respondents and in their reply it is stated that Applicant No. 1 who retired on 31.1.1993 was allowed to retain the government accommodation on normal rent for four months and for a period of further four months on double the rent. Thereafter, he was allowed to retain the quarter till 31.1.1994. The Applicant No. 2 has not been regularised in the service and therefore the quarter cannot be

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regularised in the name of the son i.e. the Applicant No. 2. The respondents have conveyed their decision by the letter dated 15.4.1994 whereby the A.E., NOCC was informed that there is no backlog in the SC quota in the regular Mazdoor. Moreover the number of SC candidates to be regularised with effect from 1.4.1994 are more than the prescribed percentage of reservation for SC category. As such, the question of considering the DRM with less than ten years service does not arise. As such, the regularization of quarter in the name of Kishore Kumar, son of Applicant No. 1 cannot be acceded to. Regarding the examples given in the OA, the respondents have explained the same that the case of the retiree Shri B.K. Verma is different from Daya Ram retiree official whose daughter Ms. Kanak Mala was appointed as telegraphist in CTO on 12.7.1994. The eviction proceedings were undertaken as per the rules by the Estate Officer, NTR, New Delhi.

4. It is contended in para 4.7 by Applicant No. 2 was employed as temporary Mazdoor in the telecom department for about 9 years before the superannuation of Applicant No. 1 i.e. 31.1.1993. It goes to show that the applicant was engaged sometime in 1984. The applicant is not on regular establishment of the respondents. To the representation sent by the applicant, the respondents have replied that the application for regularization of the applicant cannot be considered alongwith the other temporary status Mazdoor as there is no backlog of the SC quota in the cadre of regular Mazdoor. Further, the number of SC candidates to be regularised with effect from 1.4.1994 are more than

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the prescribed percentage of the reservation for the SC category. In view of this the case of the applicant who had less than ten years of service cannot be considered for inducting as regular Mazdoor in the Department of Telecom. The reference to the OM of 1981 for out of turn on compassionate ground on the retirement of the father who was also in employment in the Central Government, the applicant should be eligible for allotment. Since the applicant is not a regular employee, his request for out of turn of turn allotment on retirement of his father could not be considered. Regarding the OM of 1986 on the point of reservation of general pool accommodation to SC employees, the respondents have clearly stated that the applicant did not come in the 60 point roster. Thus, it is evident that only a regular workman in the establishment can be considered for regularization/allotment on out of turn basis on the basis of OM of 1981 referred to above. Since the applicant is not eligible he cannot have a march over others eligible SC candidates in the reservation quota for allotment of accommodation. Merely because the applicant holds a temporary status would not entitle him to be considered for regularization of the Government accommodation allotted to his father.

5. The learned counsel for the applicant has also annexed certain documents with regard to the regularization of temporary Mazdoor on a Group 'D' post. However, the applicant has not prayed for the grant of this relief. The respondents have clearly stated that those who have not completed ten years of service on 31.3.1994 are not eligible for consideration as there is

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no backlog of SC candidates and the regularization has been done according to the scheme Casual Labourers (Grant of Temporary Status and Regularization) Scheme. A copy of the said Scheme is annexed as Annexure 'K' of the original application. In view of this it is not required to go into the matter of regularization of the applicant to Group 'D' post. The learned counsel for the applicant could not show that the applicant is otherwise eligible for allotment of the Government quarter on out of turn basis in spite of the fact that he is daily rated Mazdoor holding temporary status.

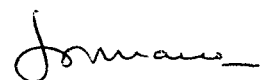
6. In the body of the application the applicant has also taken certain grounds that he and his wife both are under the treatment of pulmonary tuberculosis. On this compassionate ground he wants an out of turn allotment of government accommodation. Though the applicant is not eligible but the respondents have not replied to this fact in their counter on record. The SR made under FR 45(a) are applicable to the premises in question. On compassionate ground of illness also an employee can make a request for out of turn allotment. The respondents have ample powers for relaxation of these rules under SR 317-B-25, in a case of Pulmonary Tuberculosis and cancer, if an employee or his wife is suffering from the same. This fact is not denied by the respondents.

7. In view of the above facts and circumstances the application is disposed of with the direction:

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1. that the respondents will consider the case of Applicant No. 2 on compassionate ground on the basis of a certificate of a Government Medical Officer of TB Hospital as to whether the applicant and his wife are suffering from pulmonary tuberculosis. He should be considered in case the respondents are satisfied about the aforesaid illness and the allotment be made on 'Next Available Vacancy' on the ground of compassion in relaxation of Rules under SR 325-B.
2. The request for "out of turn allotment" or regularization cannot be granted to the Applicant No. 2 as he is not a regular employee on 31.1.1993 when his father Applicant No. 1 superannuated. with the direction as expeditiously as possible.
3. The impugned order of eviction cannot be interferred with. The respondents to comply with the direction No. 1 expeditiously.

Cost on Parties.


(J.P. Sharma)
Member(J)

Mittal