

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A.No.64/1994

New Delhi, this 2nd day of February, 1994.

Hon'ble Shri P.T.Thiruvengadam, Member (A).

1. Shri Mohinder Paul Parkash Badalya,  
s/o Ramesh Chander Badalya,  
819, Sector IV, R.K.Puram.  
New Delhi.

2. Shri Ramesh Chander Badalya,  
s/o Late Shri Sisram,  
819, Sector IV, RK Puram,  
New Delhi.

(By Shri A.K.Behra, Advocate)  
Vs.

..Applicants

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

2. The Director,  
O/O Directorate of Estates,  
Nirman Bhawan, New Delhi.

3. The Executive Engineer,  
Electrical Construction Div.III,  
CPWD. Pushpa Bhawan, New Delhi.

..Respondents

ORDER

(delivered by Hon'ble Shri P.T.Thiruvengadam)  
Member (A).

The applicant No.1 has stated in the O.A. that he was appointed on daily wage basis as wireman in the office of the Executive Engineer, Electrical Construction Division No.III, CPWD, New Delhi on 24-1-85. He continued on this post till 28-4-93 when he was regularised as wireman.

2. The applicant No.2 is the father of the applicant No.1 and retired as Section Officer in the Ministry of Labour, New Delhi on <sup>30</sup>13-11-92. The applicant No.2 had been allotted a type II quarter No.819, Sector IV RK Puram, New Delhi. The case of the applicants is that the applicant No.1 was residing with applicant No.2 for a long time. Immediately after regularisation

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(A)

as wireman with effect from 29-4-93 the applicant No.1 applied for regularisation of the quarter allotted to his father. It is the case of the applicant that the conditions stipulated for eligibility of ad hoc allotment of general pool accommodation as admissible to dependants of government employees on retirement are satisfied in their case. A show cause notice dated 25-9-93 has been served on applicant No.2 as a part of the eviction proceedings. This O.A. has been filed with a prayer for direction to quash show cause notice dated 25-9-93 and for a direction to the respondents to allot the accommodation to applicant No.1.

3. During arguments the learned counsel for the applicant mainly relied on the order passed by this Tribunal on 10-1-1992 in O.A.1856/90. The applicant in this case had been recruited on daily wages in office of the Staff Selection Commission on 2-2-1984 and was regularised against the post of Examination Work Attendant on 10-2-1989. His father was in occupation of a government quarter and had retired in the meantime on 31-1-1987. The O.A. was disposed of with the following order:-

"In the facts and circumstances of the case, we hold that it would be fair and just to treat the applicant at par with ad hoc employees for his entitlement to the ad hoc allotment of government accommodation on retirement of his father. The application, is therefore, allowed and the impugned order dated 26-6-90 issued by the Directorate of Estates is hereby set aside and quashed. The respondents are directed to allot the Quarter No.322, Aliganj, in favour of the applicant w.e.f. 10-2-89 at normal rate and adjust any excess amount paid by him in the licence fee."

The learned counsel for the applicant argued that similar order should be passed in the O.A. Under

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(5)

consideration.

4. The learned counsel for the respondents mentioned that O.A.1856/90 was disposed of ex parte since the respondents had not entered appearance or filed counter affidavit. Hence they lost the opportunity to explain the stand.

5. Reference was <sup>refer made</sup> related to the Office Memorandum of the Ministry of Works & Housing dated 1-5-1981 where the relevant para reads as under:-

"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, may be allotted accommodation from the General Pool on an ad hoc basis, provided the said relation is a Government servant eligible for allotment of accommodation in General Pool 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 any time 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.

It is argued that the basic conditions for consideration of allotment of accommodation ~~for~~ <sup>of</sup> retiring employee/ for his ward are:

- (a) Ward should be eligible for allotment of accommodation in general pool at the time of retirement of the employee.
- (b) The ward should have been appointed prior to the date of retirement.

Both these conditions are not satisfied in the present case where the regularisation/appointment took place at a date much later to the date of retirement.

Prior to this date the applicant No.1 was working on daily wage basis and the question of his not claiming the house rent allowance etc which are conditions separately prescribed for eligibility for ad hoc allotment of accommodation did not arise. It is also argued that the orders passed in O.A. No.1856/90 should be treated as orders passed in person~~ay~~ and not in rem. This may be seen from the wording used in operating portion, viz., "The orders are being passed in the facts and circumstances of the case." Thus these orders which happen to be passed without respondents submitting the position could not be taken as a precedent.

6. I agree with the arguments advanced by the respondents. *I have also not been shown any orders entitling daily wage workers for government accommodation.*

7. The O.A. is dismissed. There will be no order as to costs.

P. J. 20

(P.T.Thiruvengadam)  
Member (A)