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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A. No.989 of 1994

Dated New Delhi, this 17th day of January, 1995

Hon'ble Shri B. K. Singh, Member(A)

Smt Gayatri Devi Dogra
Ticket No.3585, Labourer
Central Ordnance Depot
Delhi Cantt-110010

R/o Quarter No.542
Sewa Nagar
NEW DELHI

... Applicant

By Advocate: Shri O. P. Sood

Versus

1. Union of India through
Chief of Army Staff
South Block
Central Sectt.
NEW DELHI-110011

2. Commandant
Army Headquarters Camp
Rao Tula Ram Marg
NEW DELHI.

3. Estate Officer
Directorate of Estate
Room No.40
'B' Wing
Nirman Bhawan
NEW DELHI

.. Respondents

By Advocate: Shri B. K. Aggarwal

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JUDGEMENT

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Shri B. K. Singh, M(A)

This application has been filed by the applicant against Orders: (a) No. EC/217/ADT/LIT/1 dated 30.10.84 issued by Estate Officer, Directorate of Estate, Nirman Bhawan, New Delhi; (b) No. 528/Q3 dated 16.6.88 (relating to sl. No. 11) issued by Army Headquarters Camp, Rao Tula Ram Marg, New Delhi-110010 and (c) No. 528/Q3 dated 7.1.94 (Annexure A (Colly)).

2. The brief facts of the case are that the applicant is a widow of Late Shri B. L. Dogra who was working as Havaldar in the Master General of Ordnance, Army Headquarters, New Delhi. He met with an accident and expired on 10.10.82. While in service, he was allotted a Government accommodation Type-I No. 542, Sewa Nagar, New Delhi. The aggrieved family was granted retirement benefits which were as follows:

- (a) Family Pension @ Rs. 550 per month
- (b) Gratuity Rs. 5000 (approx.)
- (c) Insurance Rs. 50,000
- (d) G.P. Fund Rs. 9000

3. The respondent No. 2 imposed market rent @ Rs. 120 per month with effect from 11.2.83 and the Estate Officer, Directorate of Estate passed an eviction order on 30.10.84 (Annexure-A). The widow took up the matter with higher authorities including Hon'ble Minister of State, Urban Development and the Hon'ble Prime Minister and it is stated by her that she was assured verbally

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that till the alternative accommodation is allotted in Delhi, she will not be evicted from Delhi Cantt. She filed a representation to the Hon'ble Prime Minister praying therein for regularisation of the said premises in her name since she had been given a job of a Mazdoor and regularisation would protect her from payment of market rent.

4. In view of the several letters sent by the applicant to the higher authorities, the Adjutant General, Army Headquarters vide letter No.42082/D/Petn/AG/CW-3(b) dated 9.8.88 informed the applicant that Directorate of Estates informed^{them} that the said premises (No.542, Sewa Nagar, New Delhi) is not under their control. In the meanwhile respondent No.2 increased the market rent from Rs.120 per month to Rs.500 per month with effect from 1.9.87 vide their letter No.528/Q3 dated 16.6.88. It is admitted that her case was recommended by her superior officers for sympathetic considerations, but to no avail.

5. Reliefs sought by the applicant are:

"(a) To quash Estate Officer, Directorate of Estates eviction order No.EC/217/ADT/LIT/84/1 dated 20.10.1984 and Army HQ Camp New Delhi order No.528/Q3/Sr.No.11 dated 16 June 1988 and even No. dated 7th January 1995 (inadvertantly mentioned 95) imposing enhanced rate of market rent/penal rent;

(b) Direct the respondents to regularise the quarter No.542, Sewa Nagar, New Delhi in favour of the applicant wef 8 Apr 1985 when the applicant was appointed as Labourer under the respondents alternatively accord provisional allotment of the existing quarter on normal rent till another accommodation is allotted in Delhi Cantt..."

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6. A notice was issued to the respondents who filed their reply contesting the application and grant of reliefs prayed for.

7. I heard the learned counsel Shri O. P. Sood for the applicant and Shri B. K. Aggarwal for the respondents and perused the record of the case.

8. The learned counsel for the applicant argued that respondent No.2 is not vested with the powers of Estate Officer and as such he cannot exercise the powers under P.P.E. Act, 1971 and therefore his action in regard to the imposition of market/penal rent is illegal and without any jurisdiction. It was further argued that the case of the applicant has been strongly recommended for regularisation/allotment of the same accommodation and refund of market rent already charged in excess by the respondent No.2. It was further argued that she had been provided with a compassionate appointment and as such she should be treated on a par with that of Sudesh Kalhan as decided in OA.No.2061/92 in which judgement and order was pronounced on 13.8.93.

9. The learned counsel for the respondents stated that the applicant was granted retention of the accommodation with payment of normal rate of rent @ Rs.28.20 per month from 11.2.83 to 10.3.83 as per her request. Thereafter, she was charged market rate of rent with effect from 11.3.83 vide letter No.528/Q3 dated 11.10.83. On 11.10.83, she was asked to vacate the said quarter, but she did not vacate the same.

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Hence, she was declared unauthorised occupant of the Government accommodation with effect from 11.3.83. The eviction proceedings were initiated vide letter dated 29.5.84 (No.528/ELD/93). The Estate Officer passed the eviction order vide letter No.EC/217/ADT/LIT/84/1 dated 30.10.84 to vacate the accommodation by 31.12.84. The applicant, according to the learned counsel for the respondents, was given compassionate appointment as Mazdoor vide letter No.24626/A/63/CLO dated 13.3.86. The deceased was given the present accommodation from Army Pool which is under possession of the applicant. The applicant is entitled to be allotted accommodation by the Station Headquarters according to her entitlement. It was argued that there is no possibility of the transfer of the present accommodation in the name of the applicant for the simple reason that the applicant is a civilian employee and is entitled to allotment of accommodation from General Pool and the accommodation in her possession belongs to the Army Pool. In view of these facts, it is not possible to accommodate her request in regard to the allotment of the Army Pool accommodation to a civilian employee of defence service. It was admitted that the market rate of rent has been increased by the Government with effect from 1.9.87 @ Rs.500 per month and the applicant has been paying that rent. According to the counsel, respondent No.2 is fully competent to charge market rate of rent as per instructions of the Government because the applicant has already been declared an unauthorised occupant and the matter has been pending with the Estate Officer for eviction

proceedings after the permission to retain ⁽¹⁵⁾ the said quarter/ was refused.

10. After hearing the learned counsel for the parties, the admitted facts are that the applicant is a Mazdoor and is working as a civilian employee as per rules. On her request she was allowed to retain quarter with payment of normal rate of rent @ Rs.28.20 per month from 11.2.83 to 10.3.83. In ordinary course and in case of a premature death of a husband and in case of a compassionate appointment, one can be allotted a house out of turn and the rule laid down is that it would be an adhoc allotment of house out of turn one stage below entitlement. The applicant is a Mazdoor and is at the lowest rung of the ladder. There is no representation on record to show that she had ever prayed for retention of the quarter for four months on payment of normal rent and another four months on payment of double the licence fee on medical ground or on ground of the education of her children. A Government servant or his widow in case he dies in harness, is entitled for retention of the allotted accommodation only for eight months provided there is an application to the effect that the accommodation is needed on normal rent for a period of four months and for another four months on payment of double the licence fee. We do not find any averment in the OA nor is there any petition filed to this effect to the Director of Estates. An out of turn allotment can be only one out of five on an ad-hoc basis and the applicant must stand in the queue and she will get an out of turn allotment in her turn below her entitlement. As stated above, there is no class below her because she is at the lowest rung of the

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ladder of service. Her appointment was made on compassionate ground. This itself is a benediction conferred by the army authorities. After the latest judgement by the Hon'ble Supreme Court in the case of Life Insurance Corporation of India Vs Mrs Asha Ramchandra Ambekar & Anr in CA.No.1381 of 1994 JT 1994 (2) SC 183 decided on 28.2.94, has observed that High Courts and Tribunals are expected to follow the rules strictly. They are not expected to confer benediction impelled by sympathetic consideration. Therefore, the position regarding compassionate appointment itself has become rather difficult and the out of turn allotment has become much more difficult. The accommodation which the applicant is occupying, belongs to the Army Pool and she is not entitled to get that accommodation since she is a civilian employee. In addition to this, the application is also badly hit by delay and laches. The applicant made the representations on 25.2.88 and 27.4.93. The limitation will start from 25.2.88 as held by the Hon'ble Supreme Court in case of State of Punjab vs Gurdev Singh AIR (1991) 4 SCC 1. In case of S. S. Rathore Vs State of M.P. AIR 1990 SC 77 P.10, it was held by the Hon'ble Supreme Court that repeated representastions do not extend the period of limitation.

In case of Bhoop Singh Vs UOI & Ors JT 1992(3) p.322 it was held by the Hon'ble Supreme Court that inordinate and unexplained delay or laches are grounds to refuse



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relief. The cause of action has to be reckoned from the date the first representation is filed or six months thereafter. Thus, it would be seen that the application is time barred. The law of estoppel will operate against the applicant since she had been paying rent of Rs.500 per month right from 1987 onwards which also shows that she must be in a position to pay this rent. This being an Army Pool accommodation, cannot be regularised in her name since she is a civilian employee and her late husband was an army personnel.

11. Thus, this application fails on grounds of delay and laches and on merits also, and is dismissed as such leaving the parties to bear their own costs.

12. However, while parting, the respondents are directed to consider the case of the applicant sympathetically and move the Director of Estate, Urban Development Ministry to consider her case for out of turn allotment on adhoc basis in order to see that she vacates the Army Pool accommodation which is beyond her entitlement.


(B. K. Singh)
Member(A)

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