

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA-406/95 in
QA-314/95

New Delhi this the 28th Day of November, 1995.

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

Smt. Ambika Miyan,
W/o late Sh. K.S. Miyan,
R/o Qr.No.M-77A,
Observatory Compound,
Lodi Road, New Delhi. Applicant

(through Ms. Anju Jain & Ms. Jasvinder Kaur, advocate)

versus

1. Union of India
through its Secretary,
Ministry of Science and Technology,
Technology Bhawan,
New Mehrauli Road,
Qutab Hotel,
New Delhi.
2. Director General,
Indian Meteorological Deptt.,
Mausam Bhawan,
Lodi Road, New Delhi.
3. Director (G.S.),
DGM's Office, I.M.D.,
Mausam Bhawan,
Lodi Road, New Delhi.
4. Director of Estates,
Nirman Bhawan,
New Delhi. Respondents

ORDER(BY CIRCULATION)

delivered by Hon'ble Sh. B.K. Singh, Member(A)

O.A.No.406/95 was decided on merits based on the rule position. The respondents had made a valid classification between the holders of duty posts and non-duty posts. There was an intelligible criteria in forming this classification and the classification could not be proved as arbitrary or unreasonable by the learned counsel appearing for the applicant. The onus lies on the counsel for the applicant to show that the concept of duty post & non-duty post and the

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classification based on that is arbitrary and violative of Articles 14 & 16 of the Constitution. This burden was not discharged and as such it was held that Articles 14 & 16 are not attracted. The Tribunal is not vested with the power of equity and justice. It has to administer justice according to law. As held by the Hon'ble Supreme Court in case of L.I.C. of India Vs. Mrs. Asha Ramchandra Ambekar, we cannot confer mercy or benediction on anyone. The applicant had a case deserving sympathy was abundantly made clear in the body of the judgement.

The Tribunal is not vested with any inherent power of review. It exercises that power under Order XLVII Rule 1 of the C.P.C. and there are definitive limits to the exercise of that power. The power of review can be exercised when the review applicant shows the discovery of new and important matter of evidence much after exercise of due diligence was not within his knowledge at the time of hearing or when the order was made. It can be exercised when some mistake or error apparent on the face of the record is found and indicated by the review applicant; it may also be exercised on any other analogous ground. The earlier order cannot be reviewed unless the court is satisfied that there is material error manifest on the face of the order. As stated above, justice has to be done according to the extant rules on the subject of allotment. I.M.D. quarters are meant for those who are holding duty posts, since they have to be available round the clock and they have to reside in the Campus of



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the Meteorological Department. Duty holders alone are eligible for allotment of these quarters. Non-duty holders are eligible for allotment from general pool which falls within the jurisdiction of the Directorate of Estates. The applicant admittedly is not holding a duty post and as such the quarter of the deceased husband could not be regularised in her name although she is a compassionate appointee. Till she is inducted in a duty post, she cannot get the benefit of regularisation and that was the reason why the respondents were directed to be fair and just to all its employees and to follow the rules of induction of 1 1/2 years or relax the rules in the case of the applicant in order to enable her to claim regularisation of the quarter. The power of relaxation is not vested in the ~~court~~ ^{Court/Tribunal}. This has to be exercised by the respondents. The review applicant in this review application is not in possession of any important piece of evidence nor is ~~that~~ ^{there} any error factual or legal on the face of the record and as such this does not fall within the parameters of Order XLVII Rule 1 of the G.P.C. and accordingly this is summarily rejected under Order XLVII Rule 4(1) of the G.P.C.

(B.K. Singh)

Member(A)