



CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.257/2000

New Delhi this the 5th day of November, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Smt. Sudesh Rani, D/o
Sh. Ram Parkash Bhatia,
R/O 194, Vijay Nagar Colony,
Bhiwani-127 021. -Applicant

(By Advocate Shri Yogesh Sharma, proxy for Sh. Ajay Gupta,
Advocate)

-Versus-

1. Indian Agriculture Research Council,
Krishi Bhawan, New Delhi through
its Director.

2. Indian Agriculture Statics Research
Institute Library Revenue,
through its Director. -Respondents

(By Advocate Ms. Anuradha Priyadarshini)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties. The claim of the applicant who is the legally wedded wife, as contended by the learned counsel for the applicant is for accord of pensionary benefits which have been withheld by the respondents on the ground that having retired in 1996 the Government accommodation was not vacated and after pursuing the legal remedies as provided under the Public Premises (Eviction of Unauthorised Occupants), Act, 1971 the accommodation has recently been vacated in September, 2001. As such as per the rules the applicant is liable to pay the damage rent and other charges on account of unauthorised occupation of the Government accommodation. It is also stated that another lady who is claiming to be the legally wedded wife of the deceased has stake his claim. In this view the applicant whose name tallies with the particulars as given in the nomination form of the deceased has been directed to produce the succession certificate, which the applicant has

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produced but as the succession certificate has now been subjected to another litigation and being objected to by Smt. Sudesh Rani, the respondents have decided not to release the pensionary benefits.

2. The learned counsel for the applicant by drawing my attention to the fact that the nomination was of the applicant by the deceased in his relevant papers for the purpose of accord of the retiral benefits and having tallied with the particulars and despite production of succession certificate he is deprived of his right to get pensionary benefits which is not a bounty. The learned counsel for the applicant has placed reliance on a decision of the Tribunal in Lakh Raj Devi v. Union of India, 2000 (1) ATJ 37 to contend that a legally wedded wife under no legal compulsion to produce a succession certificate as a condition precedent for accord of retiral benefits as no rule provides for the same. My attention has also been drawn to the committee report of the respondents wherein in pursuance of a letter by the applicant on 1.4.97 to the respondents that the accommodation has been illegally occupied by an unauthorised person the same may be got vacated from the same. A five member Committee was constituted and they have found that it is a clear case of impersonation and the legal process was observed to be adopted for vacation of the Government accommodation. Later on the respondents have approached the local police for vacation and ultimately they succeeded in getting the house vacated in September, 2001. In this backdrop, it is stated that in order to subject the applicant for recovery



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on account of unauthorised occupation it is to be shown that the applicant has occupied the Government accommodation unauthorisedly.

3. On the other hand, strongly rebutting the contention of the learned counsel for the applicant, the learned counsel for the respondents submitted that the applicant without handing over vacant possession and keys of the accommodation has gone to Bhiwani which resulted its being possessed by an unauthorised occupant and as such damages are to be recovered from the retiral benefits of the deceased Government servant, as envisaged under the statutory rules on the subject, i.e, allotment rules for the respondents under the control of the Director, IASIR.

4. I have carefully considered the rival contentions of the parties and perused the material on record. In my considered view the issue as to the unauthorised occupation of the Government accommodation and the rightful claim of the applicant as to the retiral benefits of the deceased Government servant being the legally wedded wife is to be gone into by the respondents again and for this purpose on the basis that they themselves acknowledged that information was in the name of the applicant and the particulars tallied. Since the certificate also reiterated and affirms the claim of the applicant regarding the only legal heirs of the deceased Government servant. On the other hand, Smt. Sudesh Devi has not produced any documentary evidence or proof to show that she is legally wedded wife. In this view of the matter and having regard to the finding of the committee that five member that the claim of Smt. Sudesh Devi was a

clear case of impersonation the respondents are directed to constitute another committee to go into the question of rightful claim of the applicant to the retiral benefits of her deceased husband having regard to the succession certificate which is admittedly not set aside or quashed by the higher court. The Committee shall also consider the question as to what amount to unauthorised occupation and whether the damages can be charged from the applicant who was not in the possession and had already intimated the respondents regarding the unauthorised occupation by some impersonation. The Committee shall take a final decision within three months from the date of receipt of a copy of this order. In the event the claim of the applicant is found to be justifiable and legal shall be accorded all the retiral benefits of her deceased husband alongwith a simple interest of 10% p.a. The OA stands disposed of accordingly. No costs.

S. Raju
(Shanker Raju)
Member (J)

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