

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-920/89

Date: 22-05-1989.

Smt. Nazra Begum Applicant

Versus

Union of India & Respondents
Another

For the Applicant Shri S.S. Tiwari, Advocate

For the Respondents Smt. Raj Kumari Chopra,
Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri D.K. Chakravorty, Administrative Member.

1. Whether reporters of local papers may be allowed to
see the judgement? *Yes*

2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who is the widow of Shri Afzal
Mohammad who had worked as Junior Butler in the Household
Establishment of the President's Secretariat, Rashtrapati
Bhavan, New Delhi, filed this application under Section
19 of the Administrative Tribunals Act, 1985 praying for
the following reliefs:-

- (a) to direct the respondents to act in terms
of Office Memorandum dated 13.7.1981;
- (b) to direct the respondents to comply with
the directions given by this Tribunal in
its order dated 20.1.1989; and
- (c) to direct the respondents to restrain the
dispossession of the applicant from the
accommodation in her occupation till her
appointment in terms of order dated
20.1.1989 is finalised.

2. The application was listed for hearing on 2.5.1989 when notice was issued to the respondents on admission and interim relief returnable on 16.5.1989. An ex parte ad interim order was also issued to the effect that the applicant shall be allowed to retain the Government accommodation which was under her occupation. This order was passed on the statement made by the learned counsel for the applicant that she was continuing in the Government accommodation at 4/13, Schedule-B, President Estate, Rashtrapati Bhavan, and that her case for appointment on compassionate grounds is under consideration by the respondents.

3. The case came up for admission on 16.5.1989, when Smt. Raj Kumari Chopra, the learned counsel appeared for the respondents and opposed the admission. We have heard the learned counsel for both the parties and have gone through the records carefully.

4. The applicant has stated that she had filed another application in the Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 (OA-1422/88). In that application, she had prayed for the appointment of her son or, in the alternative, for her own appointment, on any Group 'D' post in place of her deceased husband on compassionate grounds and for allowing her to retain the Government accommodation in her occupation. By its judgement dated 20.1.1989, the Tribunal directed the respondents that the applicant should be considered for giving appointment on compassionate grounds on any Group 'D' post by the concerned authority in terms of O.M. dated 30.6.1987. The relief claimed by the applicant regarding allowing her to continue in the Government

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accommodation allotted to her husband, was rejected.

5. In the present application, the applicant has stated that the Tribunal, in its judgement dated 20.1.89, rejected her prayer regarding retention of accommodation on the only ground that no provision has been shown in support of the prayer. In the present application, she has referred to para. 6 of the O.M. dated 13.7.1981, according to which, ad hoc allotment of Government accommodation in favour of the dependent of a deceased Government servant is subject to the condition that the dependent should get an employment under the Government within 12 months from the date of the death of the Government servant.

6. The applicant has also stated in the present application that this is a fit case for review of the order of the Tribunal dated 20.1.1989. She has further stated that a separate review application is also being filed in order that a technical objection on maintainability may not be raised. However, without prejudice to the right to file review application, the present application has been filed to secure urgent interim orders.

7. The facts of the case in brief are as follows. Shri Afzal Mohd. died in harness on 7th January, 1988 after putting in 17 years of service. He has left behind six dependents, including the applicant. After his death, the applicant submitted applications dated 11.1.1988 and 13.4.1988 to the Military Secretary to the President praying for appointment of either her son or herself on compassionate grounds. On 22.4.1988, her request for appointment of her son on compassionate grounds was rejected on the ground that he was under the age of

at 18 years. Thereafter, on 28.7.1988, she applied to the Under Secretary and Estate Officer seeking permission to retain the Government accommodation. She was permitted to retain the same upto 31.8.1988. No employment was given to her or her son. Faced with the imminent danger of vacation, she had filed OA-1422/88.

8. The sole ground on which the present application has been filed is that the applicant was not aware of the existence of Office Memorandum dated 13.7.1981 when she had earlier filed OA-1422/88.

9. The Office Memorandum dated 13.7.1981 deals with the question of allotment of Government quarters to the dependents/relations of Government servants who die while in service. A perusal of the O.M. clearly indicates that allotment of Government quarters to dependents of deceased Government servants is in the nature of a concession and not as a matter of right. A concession has to be necessarily construed strictly. This is clear from the opening words of the O.M. which are as under:-

"When a Government servant in occupation of Government residence dies while in service, his/her eligible dependent (near relation) may be allotted Government accommodation on ad hoc basis subject to the following conditions. (emphasis supplied)"

10. Para. 6 of the said O.M. is to the following effect:-

"The dependent, if not a Government servant, should get an employment under Government within 12 months from the date of death of the Government servant and the accommodation allotted to the deceased Government servant should not have been vacated."

11. It will be clear from the language used in para.6 of the O.M. extracted above that there is no obligation on the part of the Government to give employment to the dependent within 12 months. In case he gets employment during this period, and in case the Government quarter has not been vacated, he may be allotted the same quarter on ad hoc basis.

12. In the present case, the admitted factual position is that no dependent of the deceased Government servant has been given employment under the Government on compassionate grounds. The judgement dated 20.1.1989 of this Tribunal directing the respondents to consider the case of the applicant for employment on compassionate grounds, does not stipulate any time-limit within which the direction should be implemented.

13. In the facts and circumstances of the case, we see no merit in the present application and the same is dismissed at the admission stage. The interim orders passed by the Tribunal on 2.5.1989 and 4.5.1989 are also hereby vacated. The parties will bear their own costs.

Dulhebaran 22/5/89
(D. K. Chakravorty)

Administrative Member

Ranu 22/5/89
(P. K. Kartha)
Vice-Chairman (Judl.)