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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

O.A. No.1030/89

Date of decision : 15.2.1993

Shri M.N. Sharma

...Petitioner

Versus

Union of India through
Directorate of Estates
Ministry of Urban Development & Ors ...Respondents

CORAM :-

Hon'ble Mr I.K. Rasgotra, Member (A)

For the Petitioner : Shri J.P. Verghese
For the Respondents : Shri P.P. Khurana

JUDGEMENT (ORAL)

Heard.

The learned counsel for the petitioner submitted that the father of the petitioner was working as a Daftry in the Ministry of Defence and quarter No.D-553, Kidwai Nagar was allotted to him. His son the petitioner herein employed initially as a peon in the same Office & was later on promoted as L.D.C. w.e.f. 20.1.1982. The father of the petitioner retired from service on 30.11.1983. The petitioner was sharing accommodation with his father w.e.f. 1.9.1980. He stopped drawing H.R.A. w.e.f. 1.6.1981. According to the rules the petitioner should have been sharing accommodation with his father for a period of 3 years before his retirement and should not have been drawn H.R.A. during the said period. To tide over this difficulty on having drawn H.R.A. for 8 months during

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period of last three years when he was sharing accommodation his father, the petitioner refunded H.R.A drawn by him to the respondents on 23.12.1983.

In the meantime the father and petitioner continued to remain in occupation of the said quarter till the vacation order was passed against the father of the petitioner on 3.2.1986. Aggrieved by the impugned order dated 3.2.1986 the petitioner filed an appeal in the Court of District and Session Judge. He was granted an interim stay on 7.2.1986; the petition however, came to be dismissed as withdrawn on 25.9.86. The petitioner pursued the matter and ultimately the case reached the Supreme Court when following order was passed on 9th December, 1987 :-

"Special leave granted.

On November 15, 1987, notice was ordered and service seems to have been completed.

In addition dasti service had been permitted and had been taken. There is no appearance. We assume that the matter is petty and the respondents have not considered it worthwhile to enter appearance to contest the matter.

The applicant claims that his father was an allottee of official accommodation and the appellant was staying with him. For

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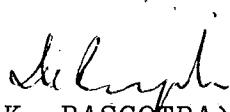
some time rent has been accepted from the appellant. The rule permits in a situation of this type that the benefit of allotment in favour of the retired father can be extended to the appellant. In these circumstances, we think the High Court was not right in dismissing the writ petition in limine. The appeal is allowed and the claim of the appellant is accepted. The appellant shall be taken to be the allottee of the accommodation and would be subject to the Rules applicable to such allotment. We understand the applicant has been kept out and in view of our decision he shall now be admitted into possession. The order of the eviction shall stand set-aside."

2. It is obvious from the above that the petitioner's claim was accepted by the Hon'ble Supreme Court and he was to be taken as allottee of the accommodation and that this was subject to Rules applicable to such allotment. Further the eviction order was also set aside by the Apex Court. After the Supreme Court had passed the above order there was apparently no cause of action for the petitioner to have approached this Court. Learned counsel for the petitioner however, submitted that

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he filed this petition seeking regularisation of the quarter in question and a direction to the respondents restraining them from charging penal rent.

From the material placed before me, I do not find that either the petitioner has been asked to vacate the quarter or to pay penal rent. In the facts and circumstances of the case the petitioner has no cause of action for seeking the reliefs prayed. I am of the opinion that after the Hon'ble Supreme Court had passed the order on 9.9.1987 as reproduced above the question of recovery of any penal rent/damages would not arise as he was ordered to be the allottee of the quarter in question. Further the order of eviction was also set aside by the Apex Court. There is no material placed before me that the respondents intend to disobey the order of Hon'ble Supreme Court. There is, therefore, no reason to believe that the respondents shall not implement the order of the Supreme Court in letter and spirit. The petition is accordingly disposed of. No costs.


(I.K. RASGOTRA)
MEMBER (A)