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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

D.A.612/88.

Shri Goodwin David ... Applicants.
and another
versus

Union of India and others ... Respondents.

P R E S E N T :

The Hon'ble Shri B.C.Mathur, Vice Chairman(A).

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman(J).

For the applicants- Shri E.X.Joseph, Advocate.

For the respondents- Shri P.P.Khurana, Advocate.

Date of hearing - 19.7.90

Date of Order -

JUDGMENT AND ORDER :

G.Sreedharan Nair, Vice Chairman(J) :-

The second applicant who was an employee under the second respondent, namely, Director of National Archives of India, was allotted Quarter No.D-174 Motibagh-I, New Delhi, from the General Pool Accommodation and was in occupation of the same alongwith the members of his family. On the basis of his recorded date of birth in the service record as 22.3.1927, he was retired from service with effect from 31.3.1985. He filed OA 1204/86 before this Tribunal for correction of his date of birth alleging that his correct date of birth is 22.3.1929. By the order of this Tribunal dated 18.12.1987, the application was allowed and it was directed that he be deemed to have continued in service till his retirement on superannuation treating his date of birth as 22.3.1929. In the meanwhile, the 4th respondent, the Director of Estates, called upon the 2nd respondent to surrender possession of the quarter, and in spite of the representations submitted by the 2nd applicant pointing out the pendency of the application before the Tribunal, the 2nd applicant and his family were evicted from the quarter on 7.7.1987.

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2. The first applicant is the son of the 2nd applicant. He was appointed as Dark Room Assistant under the 3rd respondent, Medical Superintendent, Sanjay Gandhi Memorial Hospital, New Delhi. After his appointment, the 2nd applicant applied to the 4th respondent for the transfer/allotment of the quarter occupied by the 2nd applicant to the first applicant. However, on the ground that the 2nd applicant had retired on 31.3.1985 and the employment of the first applicant was beyond six months from that date, the request was not allowed.

3. After OA 1204/86 was allowed by the Tribunal, the 2nd applicant on 15.1.1988 submitted another representation to the 4th respondent for the allotment of the quarter to the first applicant in terms of the instructions contained in the Office Memorandum dated 1.5.1981 issued by the Ministry of Works and Housing, Government of India. Since no steps have been taken by the 4th respondent for the allotment, the present application has been filed for the grant of a direction to the 4th respondent for the adhoc allotment of the General Pool Accommodation to the first applicant. It is pointed out that in a similar case one Binode Kumar, an LDC working in the Sanjay Gandhi Memorial Hospital, New Delhi, has been allotted quarter which was in the name of his father.

4. In the reply filed by the 4th respondent, it is contended that the request made by the 2nd applicant in January, 1986, for the allotment of the quarter occupied by him to the first applicant was rejected on the ground that the first applicant was working in an ineligible

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office for allotment of the General Pool Accommodation and also because there was a time-gap between the date of retirement of the 2nd applicant and the date of appointment of the first applicant. It is stated that after the 2nd applicant produced the copy of the order from the 2nd respondent revising his date of retirement from 31.3.1985 to 31.3.1987, the earlier order of cancellation of the allotment was revised making the cancellation effective from 7.7.1987. As regards the allotment of quarter to Binode Kumar, it is stated that it was made on the basis of the eligibility certificate wrongly issued by the department concerned and the offer of allotment has since been withdrawn.

5. The O.M. dated 1.5.1981 issued by the Ministry of Works and Housing, Government of India, provides that when a Government servant, who is an allottee of General Pool accommodation, retires from service his/her son, unmarried daughter or wife or husband, as the case may be, may be allotted accommodation from the General Pool on an ad hoc basis, provided the said relation is a Government servant eligible for allotment of accommodation in General Pool and had been continuously residing with the retiring Government servant for at least three years immediately preceding the date of his/her retirement. A copy of the aforesaid OM is at Annexure-A-1.

6. Admittedly, a request was made by the 2nd applicant for allotment of the quarter occupied by him in favour of his son, the first applicant. It was rejected on two grounds. First, the time-gap between the date of retirement of the second applicant and the date of appointment of the first applicant, was relied upon. Secondly, the 4th respondent

took the stand that the first applicant was working in an ineligible office for allotment of General Pool accommodation. The first ground does not hold the field, since, though the 2nd applicant was retired on 31.3.1985, by virtue of the order of this Tribunal in OA 1204/86, delivered on 18.12.1987, the date of birth of the 2nd applicant in the Service Book was corrected and the 2nd respondent, the employer of the 2nd applicant, has issued orders revising the date of retirement as 31.3.1987. There is no dispute that the first applicant was employed in Government service on 30.9.1985.

7. The short question that arises at this stage is only whether the plea of the 4th respondent that the first applicant is ^{not} eligible for allotment of accommodation in General Pool, as contemplated in the O.M. ^{is sustainable}. It is in evidence that the appointment of the first applicant was pursuant to the selection by the Staff Selection Commission. The order of appointment has been issued by the Joint Director (Administration) in the Directorate of Health Service, Delhi Administration. A copy of the order is at Annexure-A/15. Though ample opportunity was given to the 4th respondent to satisfy the Tribunal that an employee in the position of the first applicant does not fall within the eligible category for allotment of General Pool Accommodation, no material has been placed before us. In this context, it is to be noted that one Binode Kumar, an LDC, attached to the Sanjay Gandhi Memorial Hospital wherein the first applicant is working, was allowed the benefit of the O.M. by regularisation of the allotment of the quarter which was originally allotted to his father. The copy of the letter issued by the Assistant Director of Estates to the Medical Superintendent of the Sanjay Gandhi Memorial Hospital has been produced by the applicant which is at Annexure-A/16.

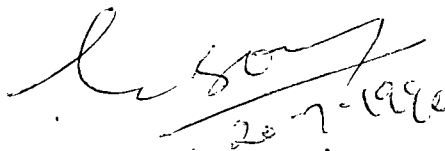
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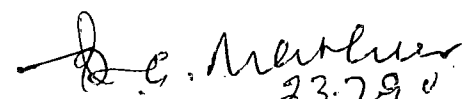
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8. In the circumstances, we hold that the first applicant is entitled to adhoc allotment of General Pool accommodation in accordance with the instructions contained in the O.M. dated 1.5.1981. We direct the 4th respondent to make the allotment forthwith, at any rate, not later than a period of two months from this date.

9. The application is allowed as above.

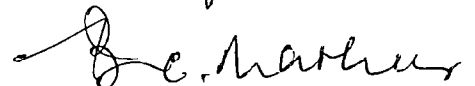

(G.Sreedharan Nair)
Vice Chairman(J)


(B.C.Mathur)
Vice Chairman(A).

S.P.Singh/

... ..

Pronounced by me in open Court.


23.7.90