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REGN. NO. O.A. 1056/88.

Shri Charanjit ... Applicant

Vs.

UOI & Ors. ... Respondents.

CORAM:

Hon'ble Shri B.C. Mathur, Vice-Chairman.

For the applicant: Shri Sant Lal, counsel.

For the respondents: Shri P.P. Khurana, counsel.

JUDGMENT.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 against the impugned Memo. No. BDG/EP-111/86-87 dated 7.7.1987 and Memo. No. BDG/EP-111/86-87 dated 4.5.1988 issued by the Estate Officer regarding eviction of Government quarter No. A-1/19 in occupation of the applicant, who was appointed on compassionate grounds on account of death of his father.

2. The brief facts of the case are that the father of the applicant, who was employed as a Farash in the Air Mail Sorting Division, New Delhi, died on 11.5.1985 while in service leaving his family in indigent circumstances. The deceased father of the applicant was an allottee of P&T quarter No. A-1/19, Pankha Road, New Delhi, where he was residing with his family including the applicant. The applicant applied to the Post Master General for providing him employment on compassionate grounds in relaxation of the Recruitment Rules. The P.M.G. approved his appointment on 29.4.1986 but after completion of all the formalities, the applicant was able to join as a Farash on 25.8.1986.


3. The Estate Officer initiated eviction proceedings against the applicant for eviction of the said P&T quarter and issued eviction order directing the applicant to vacate the quarter within 15 days from the date of publication of the impugned order. The applicant requested the P.M.G. on 17.8.1987 for allotment of quarter to him on compassionate grounds as his employment was approved by him on 29.4.1986, i.e. within a period of 12 months from the date of death of his father. The learned counsel for the applicant has relied on the judgment in the case of Shiv Kumar Vs. UOI (O.A. No. 1087/87) decided by this Tribunal on 17.9.1987, where the applicant had been allowed to continue in the house of his deceased father on compassionate grounds.

4. The respondents, in their reply, have stated that the applicant was actually appointed as a Farash after 12 months of the death of his father. The allotment of a house within 12 months, by itself, is a concession and, therefore, where a person gets appointment after a year of his father's death and where there is no malafide on the part of the respondents, he does not get any legal right to continue in the house and, therefore, on that basis, the applicant must be ordered to vacate the house and his application should be rejected. The learned counsel for the applicant states that the present claim of the applicant is better than the claim of the applicant in the case of Shiv Kumar Vs. UOI, cited supra, in whose favour the Tribunal has already decided because here, at least the appointment was approved by the PMG within the prescribed period of 12 months which was not so in the other case.

5. Perhaps, the learned counsel for the respondents is right that the applicant has no legal right to be allotted this house as the Rules state that he should have been

employed within 12 months of the death of his father. The date of appointment should be reckoned from the date when the applicant actually joined and not when his appointment was approved by the competent authority. Without going into the legal or technical aspects, here is a case where the applicant secured the appointment on purely compassionate grounds in relaxation of the Recruitment Rules. He has been living in the house allotted to his deceased father with his family and as a Government employee, he is entitled to Government accommodation. It may be true that under normal circumstances, he would get his allotment in his turn but when the appointment itself is on compassionate grounds, it may not be keeping in with the spirit of the appointment order which has been made specifically on compassionate grounds. It is also on record that the Government themselves have allowed some other employees of the P&T Department to continue in the houses on compassionate grounds in similar circumstances. I would, therefore, hold that as a special case, if not strictly speaking on the basis of Rules, the applicant should be allowed to continue in the house and quarter No. A-1/19 should be regularised in his name.

6. In the circumstances, the application is allowed. There will be no order as to costs.


(B.C. Mathur) 7.12.88
Vice-Chairman.