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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 697/87 198
CASE NO.

DATE OF DECISION May 26, 1987.

Ms. Tosh Kumari Petitioner

Shri S.N. Dhingra Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Kaushal Kumar, Member (A).

The Hon'ble Mr. G. Sreedharan Nair, Member (J).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to other Benches? *Yes*

26.5.87
(G. SREEDHARAN NAIR)
Member (J)
26.5.1987.

26.5.87
(KAUSHAL KUMAR)
Member (A)
26.5.1987.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 697/87 & N.P. No. 617/87.

DATE OF DECISION: May 26, 1987.

Ms. Tosh Kumari Applicant.
V/s.

Union of India and
others Respondents.

CORAM: Hon'ble Mr. Kaushal Kumar, Member (A).
Hon'ble Mr. G. Sreedharan Nair, Member (J).

For the applicant Shri S.N. Dhingra, Advocate.

(Judgment of the Bench delivered by Hon'ble Mr. Kaushal Kumar, Member)

JUDGMENT

This is an application for direction to respondents No. 1 and 2 for allotment of Quarter No.D-156, Moti Bagh-I, New Delhi to the applicant and for restraining them from evicting the applicant from the said quarter.

2. The applicant joined service in the P&T Department on 18.3.1976 and is presently posted as Postal Assistant in Parliament Street Head Post Office. The applicant's father died in 1957 and it is stated in the application that she was adopted by one Shri Nand Lal, who had been allotted Government Quarter No.D-156, Moti Bagh-I, New Delhi. However, no deed of adoption was prepared because of ignorance. A registered deed of adoption confirming the adoption was prepared only on 23.9.1983. Shri Nand Lal retired from service on 31.12.1983. The applicant made a representation to the Department for allotment of the quarter in her name which was earlier allotted to Shri Nand Lal. Reliance has been placed on Ministry of Works and Housing O.M. No.12035(7)/79-Pol.II dated 1.5.1981 regarding concession of ad-hoc allotment of General Pool accommodation admissible

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to eligible dependents / relations of Government employees on their retirement. Para 2 of the said O.M. provides that "the concession of making ad-hoc allotment to an eligible dependent i.e., his/her son, unmarried daughter or wife or husband only would be considered on fulfilment of the old conditions i.e. the dependent was residing continuously for a period of six months with the retired Government servant immediately prior to his retirement."

3. We have carefully considered the facts of the case, the averments made in the application and the documents filed in support of the applicant's claim and find that the application has no merit. Whereas it is stated that the adoption took place in the year 1958, no valid reason has been advanced to account for the inordinate delay in execution of the adoption deed till 1983. Obviously this appears to have been done to prepare a case for allotment of the quarter to the applicant. It has further been stated in the application in para 6(b) that "the applicant has not drawn any house rent since she was living with her adopting father in Govt. Quarter". This statement is belied by Annexure III which is a certificate given by the office of the applicant to the effect that the H.R.A paid to Smt. Tosh Kumari from 1-4-76 to 30-9-83 was recovered subsequently. H.R.A w.e.f. 1-10-83 is not being drawn and paid to the official. Obviously this recovery was done at the instance of the applicant herself who wanted to make out a case that she was not drawing H.R.A. for the earlier period after she had joined the Govt. service. We have no doubt in our mind that this is a case where the applicant has resorted to certain means for achieving an objective which was otherwise not admissible to her under the Rules. The application is hereby rejected. M.P. No. 617/87 is also dismissed.



(KAUSHAL KUMAR)
Member (A)
26.5.1987.

Per G. SREEDHARAN NAIR, MEMBER (J):

While agreeing with the order pronounced by my learned brother, I would like to add the following. The O.M. dated 1.5.1981 relied upon by the applicant does not refer to adopted son or daughter as one of the eligible dependents. Though it was submitted by the counsel of the applicant that a reference to a son or a daughter would take in adopted son or daughter as well while construing the O.M. issued by the Government conferring a concession on certain dependents, we cannot extend the scope of the dependents when it has been specifically categorised in the O.M. Apart from that what has been granted by the O.M. is only a concession. The request of the applicant for the extension of the said concession seems to have been examined by Government and turned down. In the circumstances, it cannot be said that the decision is arbitrary so as to require interference at the hands of this Tribunal.

*C 50
26.5.1987*
(G. Sreedharan Nair)
MEMBER (J)
26.5.1987.