

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Date of decision: 2.8.1991

REGN. No. OA 1962/90

Shri Lav Kumar

.....

Applicant

Vs.

U.O.I & ors.

.....

Respondents

REGN. No. OA 2137/90

Shri Hitender Kumar Saxena

.....

Applicant

Vs.

U.O.I & ors.

.....

Respondents

REGN. No. 26/91

Shri Prebal Kumar Ghosh

.....

Applicant

Vs.

U.O.I & ors.

.....

Respondents

For the Applicants

.....

Shri M.K. Gupta, Counsel.

For the Respondents

.....

Shri K.C. Mittal, Counsel.

CORAM

The Hon'ble Mr.

P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr.

B.N. DHOUNDIYAL, MEMBER(A)

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 it needs to be circulated to other Benches of the Tribunal? *no*

JUDGEMENT

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE MR. B.N. DHOUNDIYAL, MEMBER)

As common questions of law, facts and relief are involved in the aforesaid three applications filed under section 19 of the Administrative Tribunals Act, 1985, they are being disposed of by a common judgement.

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2. In the first case i.e. OA No.1962/90, the father of the applicant, Shri Lav Kumar Nanda died on 25.7.84 while he was working as Darwan in the office of the Government of India Press, Ring Road, New Delhi. Though the applicant applied for compassionate appointment on 25.8.84, the offer for temporary post of Compositor Grade.II was made to him only in July 1986 and he joined his duty on the date he received that order on 28.7.86. He applied for regularisation of the Type I quarter No.1/119, Government Press Colony, Mayapuri, New Delhi, which was allotted to his father. The family had been living in this quarter though he himself was entitled to get Type II quarter, his basic salary being Rs.1030/-. The applicant has not been drawing house rent allowance. Though he is keeping the family of his deceased father, the accommodation is not being regularised in his name perhaps due to the reason that he could not secure compassionate appointment within 12 months after the death of his father. He has paid under protest the licence fee on market rate till 30.4.88 but he is being asked to deposit the damages also. The applicant contends that he should not be penalised by the Government for not giving him compassionate appointment in time.

3. In the case of Shri Hitender Kumar Saxena (OA No.2137/90), his father Shri B.B.L.Saxena, who was working as Bindary Foreman in the office of the Manager, Government of India Press Ring Road, Maya Puri, New Delhi, died on 4.11.84. The applicant applied for compassionate appointment on 10.12.84 but was appointed as Mono-Key Board Operator only on 11.7.86. Immediately thereafter, he applied for regularisation of accommodation No.II-9 Mayapuri Press Colony, New Delhi, Type II quarter to which he is entitled as his basic salary is Rs.1440/- per month. He fulfils all the conditions of eligibility for regularisation of the accommodation except that he could not secure employment within 12 months after the death of his father. In this case also, no house rent allowance is being drawn by him and the licence fee is being paid at the market rate under protest. The respondents are also claiming damages.

4. In the case of Shri Prebal Kumar Ghosh (OA No.26/91), he had not attained the age of 18 years when his father Shri N.C.D.Ghosh, who was working as Binder Grade-I in the Government of India Press, Ring Road, New Delhi, expired on 6.12.81. On representation being made by his mother, they were advised to approach the authorities when he attained the age of 18 years and passed the class 10 examination. He was given compassionate appointment to the post of Copy Holder with effect from 27.3.1985. The family had been living in Quarter No.II/7, Press Colony, New Delhi which was allotted to the father of the applicant. His basic pay being Rs.1070/-, he is also entitled to this type of accommodation. When the applicant applied for regularisation of this accommodation in May, 1985, he was asked to deposit all the dues. The applicant is paying licence fee at market rate and yet a claim for damages has been made against him.

5. All the three applicants have cited a number of precedents where in the cases of similarly situated employees, regularisation has been done without levying damages.

6. The respondents in all these cases have admitted the factual position and indicated that after allowing concessional period of four months subsequent to the death of the original allottee, the allotment was cancelled and further extension of six months was allowed. They have conceded that in accordance with the rules, on the basis of allotment to the deceased father, the applicants were eligible for allotment of the houses on ad hoc basis provided they were appointed in Government service within a period of 12 months after the death of the original allottees. Since the applicants have not cleared their dues the applications for regularisation could not be considered. They have admitted that in some cases similarly situated employees have been given the benefit of regularisation of accommodation allotted originally to their fathers.

7. We have carefully gone through the records and have considered the rival contentions. Similar issues have been considered in

OA Nos.164/88 and 179/89 in which another Bench of this Tribunal of which one of us(Sh.P.K.Kartha) was a party delivered judgement on 13.1.89. The relevant extract from the judgement is reproduced below:-

" The learned counsel for the respondents has not denied the three cases in which regularisation was allowed even though the compassionate appointments materialised more than twelve months after the death of original allottees. Since in the instant cases, also the circumstances are similar and it has not been shown that the delay in the compassionate appointments was in any way caused by the applicants, we feel that the applicants are entitled to get the allotted quarters regularised in their favour."

8. Special Leave Petitions No.5536-37 filed against the aforesaid judgement were dismissed by the Supreme Court on 10.7.89.

9. Following the ratio of the above judgement, we allow these three applications with the direction that the quarters occupied by the applicants should be allotted to them from the date of their appointment subject to their fulfilling the requisite conditions. While fixing the charges during the period between the death of their fathers and their appointments, the damages shall be deemed to have been waived off and only normal licence fee shall be charged.

There will be no order as to costs. A copy of this order may be placed on all the case files(OA 1962/90, OA 2137/90 and OA 26/91).

B.N. Dhoundiyal
(B.N.DHOUNDIYAL) 2/8/91
MEMBER(A)

P.K. Kartha
(P.K.KARTHA)
VICE CHAIRMAN(J)