

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2335/90
T.A. No.

199

DATE OF DECISION 25.01.1991.

Shri Sumey Singh Rathi & Another Petitioner

Shri K.C. Mittal Advocate for the Petitioner(s)

Versus

U.O.I. through the Secretary, Min. Respondent
of Health and Family Welfare & Others

Shri M.L. Verma Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

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*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. D.K.
Chakravorty, Administrative Member)

Applicant No.1 was a Supervisor in Ram Manohar Lohia Hospital, New Delhi and he was allotted Government accommodation No.K-103, Clive Square, New Delhi. He retired on 28.02.1989. Applicant No.2 is the married daughter of applicant No.1. She is in the service of Dr. Ram Manohar Lohia Hospital, New Delhi and is working as a Group 'D' employee. She has been living with applicant No.1. The applicants have stated that applicant No.2, who has been dependent and living with applicant No.1, is entitled to Government accommodation No.K-103, Clive Square, New Delhi on the retirement of applicant No.1. The

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husband of applicant No.2 is also an employee of Dr. Ram Manohar Lohia Hospital, New Delhi and has been living with with the applicants at the aforesaid accommodation.

Applicant No.1 vide his letter dated 9.6.1983 informed the respondents that his son-in-law was residing with him at the said accommodation. On 25.6.1983, the Chief Administrative Officer of Dr. Ram Manohar Lohia Hospital, New Delhi asked applicant No.1 as to whether his son-in-law would be staying with him regularly or for a temporary period. The applicant No.1 informed him vide letter dated 28.6.1983 that his son-in-law with his family were staying with him permanently.

2. On 1.2.1990, applicant No.1 requested the respondents for allotment of the aforesaid Government accommodation in the name of his daughter, applicant No.2. He also referred to three instances in which married daughters of ex-employees had been allotted Government Quarter on retirement of the father. These cases pertain to Smt. Kanti Devi, daughter of late Ram Sw arup, Sweeper, Mrs. Usha Poddar and Mrs. Sarla, Widows.

3. On 15.5.1990, the respondents informed the applicant No.1 that Quarter No-K-103, Clive Square,

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New Delhi cannot be regularised in the name of his daughter.

4. The applicant No.1 has stated that he has been a trade union activist and it is because of the mala fides on the part of Shri Sohan Lal, the quarter dealing clerk, that he is being put to harassment and humiliation.

5. The respondents have stated in their counter-affidavit that the request of the applicant for regularisation of the quarter in question in the name of his daughter was considered by the House Accommodation Committee which rejected the same on the ground that regularisation of quarter in the name of the married daughter of a retired Government servant is not permitted as per the existing instructions in respect of general pool accommodation. The respondents have also stated that the wife of the applicant has been allotted Government accommodation at Quarter No.304, Block 85 Punchquian Road, New Delhi, by the hospital pool of Lady Hardinge Hospital and that she has occupied that quarter on 25.4.1990. The applicant No.1 had suppressed this information while requesting for extension to retain the quarter allotted to him and to regularise the same in the name of his married daughter. The present application was filed by him on 6.11.1990, whereas his wife had been allotted accommodation on 25.4.1990. The respondents have also relied upon the undertaking given by applicant No.1 vide his letter dated 16.10.1990 that he would vacate the

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quarter on 10.10.1990(vide Annexure R-17 to the counter-affidavit). The applicant, however, did not do so.

6. The respondents have also denied any allegation of mala fides on the part of Shri Sohan Lal, as alleged in the application. They have further distinguished the three instances in which the married daughters had been allotted Government accommodation.

7. The applicant No.1 has stated in the rejoinder-affidavit that his wife had separated and had been allotment of a quarter to his living separately from him and that ~~wife~~ has no relevance in so far as the regularisation of the quarter in the name of his daughter is concerned.

8. We have carefully gone through the records of the case and have considered the rival contentions. According to the Government Policy, unmarried daughter of a Govt. servant who had retired from service is eligible for allotment of accommodation in general pool in case she had been continuously residing with him for at least three years immediately preceding the date of retirement. In case a person is appointed to Government service within a period of three years preceding the date of retirement or had been transferred to the place of posting of the retiring Government servant any time within the preceding three years, the date on which he was so appointed or transferred would be the date applicable for the purpose.

9. In the instant case, the applicant is not eligible for regularisation of Government accommodation which had been allotted to her father as she is a married daughter. The three instances referred to by the applicants in which the married daughters were given Government accommodation are clearly distinguishable.

10. The respondents have produced ^{the} relevant files relating to the three persons to whom accommodation was given though they were married daughters. It is seen that the daughter of Ram Swarup was given accommodation by the Directorate of Estates and not by the respondents and that too on compassionate grounds. This is clear from the letter written by the Estate Officer of Dr. Ram Manohar Lohia Hospital, New Delhi dated 20.4.1988 addressed to the Directorate of Estates, New Delhi, which reads as follows:-

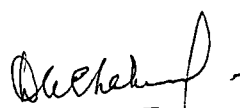
" I am to send herewith an application in original along with a copy of death certificate received from Smt. Kanti Devi, Safaiwali of this hospital for necessary action. She may be allotted the accommodation occupied by her father on compassionate grounds, if permissible under Rules".

11. Mrs. Usha Poddar and Mrs. Sarla were widows and they were dependent on their parents at the time of allotment. They were allotted Government accommodation on compassionate grounds

12. The version of applicant No.1 that he is separated from his wife and that he is living separately from her has been mentioned for the first time in the rejoinder-affidavit. His version does not appear to be very convincing and is an after-thought. When the separation took place, has not been mentioned by him. He has also not produced any document to substantiate the version made by him.

12. After considering all the aspects of the case, we are of the opinion that the applicants are not entitled to regularisation of the Quarter No.K-103, Clive Square, New Delhi, in the name of applicant No.2. In view thereof, the application is dismissed as devoid of merit. The interim order passed on 13.11.1990 and continued thereafter ^{would stand} vacated with effect from 1.3.1991.

There will be no order as to costs.


(D.K. CHAKRAVORTY)
MEMBER (A)

25/1/91


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