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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * * *

O.A. NO.1196/1991

DATE OF DECISION 3.1.1992

SHRI TRIVENI SAHNI

...APPLICANT

VS.

INDIAN COUNCIL OF AGRICULTURAL
RESEARCH

...RESPONDENTS

CORAM

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI R.L. SETHI

FOR THE RESPONDENTS

...SHRI MANOJ CHATTERJEE

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*

2. To be referred to the Reporter or not? *Y*

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has assailed the order dt. 28.7.1990 turning down the request of the applicant for regularising the quarter No.393, Krishi Kunj, IARI, New Delhi and also the order dt. 6.5.1991 by which the respondents threatened to take the possession of the quarter in question. The applicant in this application has claimed the relief that the order dt. 6.5.1991 be quashed and set aside and the quarter No.393, Type-II, Krishi Kunj, New Delhi may be allotted to the applicant.

(16)

2. The facts of the case are that the aforesaid quarter was allotted to the father of the applicant, Sh.Bishashwar Sahni, who was employed as a Technical Assistant. The father of the applicant retired on 31.7.1990. Since the retirement of his father, the applicant has been requesting the respondents to allot the quarter in his name. The HRA from the salary of the applicant was deducted from 1.3.1988 to September, 1990. The respondents stopped deducting HRA without any request from the applicant for malafide reasons. The respondents have allotted quarter in similar cases to a number of persons-Ganga Saran, Bishamber Singh etc. The respondents contested the application and stated that the applicant has no cause of action and the application has been filed by misrepresentation. It is stated that Shri Bishashwar Sahni is in unauthorised occupation of the quarter No.393, Krishi Kunj, IARI, New Delhi after his retirement from IARI service. Since he failed to vacate the premises, a notice dt. 6.5.1991 was served on him. In order to defeat eviction, the present application has been got moved by the father of the applicant through his son. The respondents have filed IARI Allotment of Residence Rules, 1982 (Annexure R1). Rule 28(iii) of the said rules is as under :-

"The Institute's servant, who is an allottee of institute pool accommodation retired from service his/her son, unmarried daughter or wife or husband as the case may be and his dependent is working in the Institute may be allotted accommodation from the Institute pool on ad-hoc basis, if the dependent had been continuously residing with the retiring Institute servant for at least three years immediately preceding the date of his/her retirement or from the date on which he was so appointed in the Institute."

(1)

The applicant has been residing with his father since 1.3.1988, the date from which the applicant is not claiming HRA of his own. The father of the applicant retired on 31.7.1990 and that is for only 2 years and 5 months prior to the date of retirement of applicant's father. The applicant has been legally residing with him. While Rule 28(iii) provides that the applicant should be continuously residing with the retiring Institute servant for at least three years immediately preceding the date of retirement. The applicant has been working in the Institute since 1984 and the applicant kept on drawing HRA upto February, 1988. Only seven days before the retirement of his father, the applicant made a representation on 24.7.1990 for allotting the said premises in his name. Thus in view of the Extant Rules, the applicant cannot be allotted the said premises and the father of the applicant is in unauthorised occupation of the same.

3. We have heard the learned counsel of the parties at length and have gone through the record of the case. During the course of the arguments, the respondents have filed a number of documents along with the application dt. 5.3.1988 by the applicant (Annexure R2). In this application, the applicant has clearly stated that since February, 1988, the applicant has started living with his father in Quarter No.393 and earlier to it, he was living elsewhere. The respondents have filed extract of

accounts showing the payment of HRA to the applicant for different periods. In view of the above facts, it is clear that the applicant has started living with his father only from March, 1988. The Allotment Rules of IARI, which are appended to the counter of the respondents at p-20 lay down the condition on which an allotment can be made to the dependents of employees of the Institute on out of turn basis. The aforesaid Rule 28(iii) has been quoted above and it provides that if the dependent has been continuously residing with the retiring Institute servant for at least three years immediately preceding the date of his retirement, then the ad-hoc allotment to the dependent can be made. Since the applicant does not qualify the period of three years, so he has no case. It is not disputed that the applicant has drawn HRA upto February, 1988. It is also established that in March, 1988, the applicant for the first time requested that the HRA be not paid to him as he has started living with his father and earlier to this, he was living elsewhere. Both these facts having been established, the applicant cannot be allotted, on ad-hoc basis, the quarter occupied by his retired father under Rule 28(iii) of the Allotment Rules.

4. In view of the above facts, the application is totally devoid of merits and is dismissed leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA) 3.1.92
MEMBER(J)

D. K. Chakravorty
(D.K. CHAKRAVORTY) 31/1/892
MEMBER(A)