

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO.1259/91

21.05.1992

Dr. (Mrs.) K.S. Shyamini

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri Umesh Mishra

For the Respondents

...Shri J.C. Madan, proxy
counsel for
Shri P.P. Khurana

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

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

The applicant is a married daughter of a retiree Shri V.K. Ayyapunni, who retired on 28.2.1989 and during the course of his service, he was in occupation of an allotted general pool accommodation-A 187, Pandara Road, New Delhi. While he was in service, he was maintaining his family along with the applicant, Dr. (Mrs.) Shyamini, who is Medical Officer in CGHS since 1987 and it is said that she is not taking HRA as she is sharing accommodation with her father. As per OM No.12035(14)/82/POL.II dt.19.11.1987, a ward of a retiree is entitled to out of turn allotment of eligible type of quarter on certain conditions. One of

(5)

the conditions is also that such an employee, who applies for out of turn allotment/regularisation should give an undertaking in an affidavit that such person will keep the retiree in the said accommodation along with the family. The applicant in this case has prayed that the said quarter allotted to her father, A-187 Pandara Road, New Delhi be regularised/allotted in her favour.

2. The respondents contested this application. The facts which are not disputed are that the applicant is also an employee of the Central Government working in CGHS scheme and does not own a house of her own and is sharing the accommodation with the retiree, her father and not drawing any HRA. However, it is stated that she is not entitled to the type of quarter/premises which were in occupation of the retiree and as such on the recommendation of certain VIPs., the case of the applicant was favourable considered and 'C' Type accommodation was recommended to be allotted to her on the condition that she should give an undertaking to keep the retiree and his family. By the letter dt. 28.11.90 she was also requested to clear all the dues outstanding in respect to the rent/damages with respect to the/quarter allotted to the retiree and he retained the same after his retirement after 28.2.1989. Since there was no reply, the matter could not be processed further by the respondents.

(b)

3. I have heard both the counsel at length. Though in the counter, the respondents have taken the plea that married daughters of retired Government officers are not to be considered for regularisation/allotment of an alternative accommodation. However, the respondents have annexed OM of Directorate of Estates dt.17.12.1991 wherein before para-1 in the preliminary paragraph, it has been stated as follows :-

"It has now been decided to extend the scope of this concession to the married daughter of a retiring official, in case he does not have any son or in case where married daughter is the only person who is prepared to maintain the parent (s) and the sons are not in a position to do so (e.g. minor sons)."

4. It has also been revealed during the course of the arguments that though son is minor, but is not an earning member or having an independent livelihood to look after and care for the family of the retiree.

5. In view of the above facts, the Original Application is disposed of with the following directions :-

(a) The applicant shall give an undertaking on an affidavit to the respondents that she will maintain the retiree and his family and upto that time she will retain the accommodation/premises to be regularised/allotted to her by the respondents on the payment of prescribed licence fee and other dues. *Under her husband is also not an allottee of a Govt. quarter.*

(A)

- (b) The respondents in the event of the undertaking being given by the applicant, within one month from the date of this order allot her the eligible type of accommodation; if she is entitled to the present type occupied by the retiree, then regularise it otherwise another accommodation of the eligible type be allotted to her which can be given in out of turn allotment on the ground that the applicant is the ward of a retired Government servant.
- (c) The applicant shall be liable to pay the rent/damages as per Extant Rules for the occupation of the allotted premises in the name of the father retained after the retirement of her father beyond 28.2.1989 and in this event direction No.(b) shall come into effect. The said rent or damages shall be realised upto the period the alternative accommodation or the present accommodation is not regularised which is expected to be done if compliance is made of direction Nos.(a) & (b) within a period of three months from the date of receipt of a copy of this order.
- (d) If the applicant is not entitled to the same type of accommodation, i.e., the type which was occupied during the course of employment by the retiree, then the respondents will take regard that the allotted premises may be in the nearby locality as far as possible, but it shall not be a mandate. In the circumstances, the parties to bear their own costs.

J. P. Sharma
21.5.92
(J.P. SHARMA)
MEMBER (J)
21.05.1992