

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No.
T.A. No.

158/91

199

DATE OF DECISION 23.8.91.

Shri Pitambar Dutt Pathak ~~Petitioner~~ ApplicantShri B. Krishan, ~~Petitioner~~ Advocate for the ~~Petitioner(s)~~ Applicant

Versus

Union of India & anr.

Respondents

Shri P.P. Khurana Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. D. K. CHAKRAVORTY, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Y*
4. Whether it needs to be circulated to other Benches of the Tribunal? *MC*

JUDGEMENT(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. D. K. CHAKRAVORTY, MEMBER)

The applicant is working as Staff Car driver in the Cabinet Secretariat since 27.4.87. His father, Shri Goverdhan while working in the Metrological department had been allotted Government residence bearing No. 7/220, R.K.Puram, New Delhi. His father retired as Mechanic Grade-I with effect from 8.5.87. The applicant has been staying with his father. The prayer contained in this application is that the allotment in respect of the aforesaid accommodation be regularised in the name of the applicant and that he may not be made liable to pay any sort of damages/market rate of licence fee in respect of the said premises.

2. The respondents have not filed their counter-affidavit. However, we have gone through the records

of the case carefully and have heard the learned counsel of both parties. When the application came up for admission on 18.1.91, the Tribunal passed an interim order directing the respondents not to dispossess the applicant from the aforesaid quarter subject to his liability to pay licence fee etc. in accordance with the rules.

3. The respondents had cancelled the allotment with effect from 1.10.87 by letter dated 27.10.87. The said cancellation effective from 1.10.87 was however, withdrawn by the respondents by a subsequent communication dated 17.5.90.

4. The applicant applied for regularisation of the said premises in his name vide his application dated 23.11.87. The applicant has stated that he is entitled for Type 'B' accommodation from the General Pool and that the present accommodation is also according to his entitlement. He has stated that the said accommodation is liable to be regularised in his name on the ground of his father's retirement. The respondents, however, rejected his request on the ground that the actual date of superannuation of the father of the applicant was 31.3.86 and [redacted] the applicant secured employment after the date of superannuation/retirement.

5. This was followed by passing of the final eviction order dated 8.1.91. The applicant has challenged the validity of the same. He has also given instances where the respondents have regularised the accommodation in the names of persons who entered Government service after the retirement of their fathers.

6. The applicant's father had filed OA No.635/86 in this Tribunal wherein he had sought for a direction to the respondents that he should retire at the age of 60 years instead of 58 years. The Tribunal gave its judgement on 23.7.87 dismissing his application. In view of the judgement of the Tribunal, he was made to retire on 8.5.87 till which date the stay granted by the Tribunal was operative.

7. The applicant entered Government service on 27.4.87 which was during the period of operation of the stay order given by the Tribunal in OA 635/86. In view of this, we are of the opinion that the applicant is entitled to regularisation of the above-mentioned accommodation in his name. The cancellation of the allotment is, therefore, not legally tenable. We are also of the opinion that the applicant cannot be made liable to pay any amount other than the normal licence fee payable by a Government servant in occupation of Government accommodation. The application is disposed of accordingly.

There will be no order as to costs.

D.K.Chakravorty 23/87
(D.K.CHAKRAVORTY)
MEMBER(A)

P.K.Kartha 23/87
(P.K.KARTHA)
VICE CHAIRMAN(J)