

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

(7)

O.A. NO.160/91

8.7.1992

Shri Anil Kumar Singh

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM

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

For the Applicant

...Sh.B.Krishan

For the Respondents

...Sh.P.P.Khurana with
Sh.J.G. Madan

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

JUDGEMENT (ORAL)

The applicant is working as Assistant Teacher in Government Lady Noyce Secondary School for the Deaf, his father, Shri B.D. Singh was also employed as Teacher in the same department and retired w.e.f. 28.2.1989. The applicant throughout has been sharing the said accommodation with his father and has not been drawing house rent allowance since his appointment in September, 1982. The applicant applied for regularisation of the allotment of the said premises in terms of Memo dt. 1.5.1981 (Annexure A1) and the application was forwarded by the Principal of the said institution (Annexure A2). It is the case of the applicant that he has been consistently visiting the office of respondent No.1. He has not been communicated any rejection of his request, but

de

...2...

he otherwise learnt that the allotment in respect of the premises under administrative control of Director of Estates are not being allotted in the names of the teaching staff under Delhi Administration. It is further stated that without passing any final order on the application for regularisation of the said quarter, respondent No.2 has initiated action under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and served a show cause notice to his father dt. 22.9.1990. The father of the applicant replied to the said notice, but ultimately a final order of eviction was passed on 2.1.1991. The respondents were issued notice after the filing of this application on 17.1.1991. The respondents have been served by dasti notice and since January, 1991, more than a dozen of dates were given to the respondents to file their reply to the various averments made in the OA, but no reply has been filed. Shri J.C. Madan, proxy counsel for Shri P.P. Khurana appeared on 26.5.1992 when it was revealed that the counter has been finalised and it will be filed after the signature of the competent person and two weeks' time was prayed for, which was allowed. The matter is listed again today, but the learned counsel for the respondents, Shri P.P. Khurana again seeks further adjournment on the same ground, which was revealed on the last sitting of the Bench on 26.5.1992. Since January, 1991, the respondents did not care to file any reply in spite of repeated adjournments allowed for the same. In the circumstances detailed above and on the objection raised by the learned counsel for the applicant, no further time can be allowed and the learned counsel for the respondents has been

heard on the basis of the pleadings already on record.,

The learned counsel for the applicant has referred to the OM of Director of Estates dt. 1.5.1981 which lays down the provision for regularisation of the accommodation in favour of the eligible ward of the retiree Government servant provided the ward is also an employee under the Government. The relevant rules in this regard are also laid down in SR 317 B where the employees of Delhi Administration too are entitled to general pool accommodation at par with the Central Government employees. The respondents have not filed any such notification or order or administrative instructions which debar the present applicant from allotment and regularisation of the premises which he has shared all along with the retiree father and did not claim any HRA since the date of appointment w.e.f. 1982 otherwise admissible to such an employee.

2. The dormant attitude of the Directorate of Estates not attending to a request of regularisation of the quarter made as early as in February, 1989, before the date of actual retirement of the father of the applicant, cannot be condoned unless there are certain specific reasons in that regard. It cannot be said that the department of Directorate of Estates was not conscious of the fact that the father of the applicant, Shri B.D. Singh has reached superannuation on 28.2.1989 in as much as the matter was taken up under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and a notice has been issued and on the basis of the notice, final order has also been passed some time in January, 1991, the photostate copy of which has been annexed to the application.

3. The learned counsel for the applicant has also relied on the judgement of OA 831/90 decided by the Division Bench on 15.5.1991 (Shri B. Narayan Sharma vs. UOI) wherein a case of similarly situated applicants, the respondents did not file any reply and the Bench after considering the matter on the basis of certain reasoning already given in another case-OA 1713/87 decided on 13.5.1991, directed the respondents to regularise the same quarter in the name of that applicant.

4. There is nothing to distinguish the case of the present applicant to that of the case of the applicant of OA 831/90 or with the applicant of OA 1713/87.

5. However, the fact still remains that there is nothing on record either by way of reply or any document whatsoever to show that the applicant is not entitled to the relief of regularisation of the quarter which he shared with the retiree father.

6. In view of the above facts and circumstances, any action taken under Public Premises Act, 1971 by respondent No.2 shall not be sustainable and is not justified. The proceedings drawn under that Act also cannot be said to be regular one.

7. The application is disposed of at the admission stage itself. The application is allowed and the respondents are

13

directed to regularise the quarter No.1338, Laxmi Bai Nagar, New Delhi in favour of the applicant, Shri Anil Kumar Singh with a further direction that only the normal licence fee should be realised from the applicant after the retirement on superannuation of his father on 28.2.1989. The proceedings of ejectment or for levying penal rent are also quashed. The respondents shall comply with the above directions preferably within a period of three months from the date of receipt of this order. In the circumstances, the parties shall bear their own costs.

AKS

(J.P. SHARMA)
MEMBER (J)
8.7.1992