

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

DA.2425/91

Date of Decision: 4-6-1992

Smt. Godawari

Applicant

Versus

Union of India & Anr.

Respondents

Shri P. Krishan

Counsel for the applicant

Shri P.P. Khurana

Counsel for the respondents.

J U D G E M E N T

(delivered by Hon.Member(J) Shri C.J. ROY)

This application has been filed by Smt. Godavari, under Section 19 of the Administrative Tribunal's Act, 1985 against the order of the respondents rejecting the request of the applicant for regularisation/allotment of alternative accommodation of Government accommodation after retirement of her husband from Government service w.e.f. 31.8.90 and eviction order dated 24.9.91, directing the applicant to vacate the premises in question within 15 days.

2. According to the applicant, he is employed in Government Boys Senior Secondary School, Sector VII, R.K. Puram, New Delhi under the Delhi Administration, in the capacity of a Water Woman. Subsequently, she was regularised on 2.5.87. She is entitled to Type-A accommodation in the General pool. Her services are transferable from one department to another

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department of the Delhi Administration. It is further alleged in the OA that she is working in the Directorate General, Delhi Administration in the Group 'D' post. She is occupying the Government accommodation No. Sector-1, 93/1, M.B. Road, New Delhi which was allotted to the respondent No.2, in the name of her husband Shri Mann Singh, who has since retired from Government service w.e.f. 31.8.90, while working as Notice Server in Regional Office of the Income Tax Settlement Commission, New Delhi. The applicant claims that she is sharing with her husband the quarter from 1983 and that she has not been drawing any HRA, after regularisation of her appointment w.e.f. 2.5.85. She is likely to be superannuated on 31.12.1997. The applicant being eligible for allotment of the quarter applied for regularisation of the same quarter vide application dated 18.9.90 through proper channel. The applicant has also claimed that she is entitled for either regularisation or alternative accommodation in terms of OM dated 1.5.81 Annexure A-1 and A2a. But the request of the applicant was rejected on 21.12.90 on the ground that the staff working in school under the Delhi Administration are not eligible for Government accommodation on general pool. The rejection letter is at Annexure A-3 to the OA. She states due to inconvenience she could not attend the hearing and she was not committed and therefore, a final eviction order was passed. The annexure A-4 notice is to vacate the quarters.

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The applicant has so far not vacated the Government accommodation. The premises and the damage rent has been imposed on her due to overstay. The applicant assails the said damage rent in terms of OM dated 27.8.87 read with OM dated 20.1.89 and 1.4.91 as the legal action against the applicant is devoid of merit and no legal action can be made. Hence she is not liable for any damages. She further alleges that several staff of the School/Delhi Administration have been denied allotment. OA 831/90 is filed and it was allowed on similar ground in the case of B. Narsin Sharma Versus Union of India. She has prayed that the allotment in respect of Government accommodation be directed to be regularised in her name or alternative accommodation of Type-A be given in the same area and she may not be charged any penal rent/damages and the eviction order be set aside.

2. Shri P.P. Khurana argued the matter but there is no counter filed. But the learned counsel for the respondents filed an OM dated 24.8.90 stating that this will not apply to the Delhi Administration School Teachers posted in School.

3. I have heard the learned counsel for both parties and perused the documents on record. At the outset, it may be seen that a Water Woman is not a Teacher. A teacher can be posted anywhere but cannot be posted in all the department in Delhi Administration but a Water Woman can be posted anywhere in any department in the Delhi Administration. Therefore, the above reference of the OM dated 24.8.90 does not seem to be helpful to the respondents.

But the learned counsel for the applicant shows the latest OM in which eligibility for allotment for accommodation from the general pool of the Delhi Administration and the ban is withdrawn with certain conditions. It was urged that prior to the imposing of the ban the position was different and subsequent to the lifting the ban the position is different. The OM dated 24.8.90 reads as follows:-

".....The undersigned is directed to refer to this Section OM of even number dated 29.8.89, in which a list of offices eligible for general pool accommodation in Delhi was circulated for information and necessary action of all concerned. Part 'B' of the list contains officers of Delhi administration. The question of eligibility of various Branch offices/Administrative offices/Regional offices of the Departments of Delhi Administration which are already appearing in the eligibility list has been under consideration and it has been decided that such Branch Offices/Regional Offices/Administrative Offices whose Headquarters are already in our eligibility list should be treated as eligible for allotment from General pool in Delhi provided the code number intimated on their application is that of the Headquarter.

This will not apply to Delhi Administration School Teachers and the staff posted in School."

4. Besides the learned counsel for the applicant filed two OAs No.1226/91 (E.M. Tigga Versus Union of India) rendered on 19.5.93, which is allowed under similar circumstances. The other judgement OA 160/91 was decided on 8.7.82. When some of the directions were not executed, a contempt of court application was filed and the learned counsel for the respondents gave an undertaking before the Hon. Chairman that it will be implemented. He also filed another OA 831/90, B. Narain Sharma and Anr. Versus Union of India decided on 15.5.91 by the Divisional Bench of this

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Tribunal, wherein a reference has been made to OA 1713-87 decided on 13.5.1991, in which the law, rules and regulations with regard to the allotment of accommodation to the eligible employees and non-allotment to ineligible employees has been discussed. There was a direction given that the normal rent should be charged. In the circumstances, following the ratio of the above judgements, and looking into legal position that the Water Woman can be posted anywhere under Delhi Administration unlike ^aTeacher, she cannot be treated on par with ~~the~~ ^{my} Teacher. That apart, the ban is lifted. Apart from that, the above judgements asking for similar reliefs were allowed. Following the judgements, I have no hesitation to hold that the applicant has made out a case and therefore, the eviction order dated 24.9.91 and the order charging penal rent/damages are hereby set aside and quashed. The respondents are directed to regularise the quarter in the name of the applicant and collect normal rent in accordance with Rules, from the date of her application for regularisation till date. The above direction shall be complied with, within a period of 3 months from the date of receipt of this order. There will be no order as to costs.

kam030693.

History
(C.J. ROY)
MEMBER (J)

4/6/93