

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 2524/91

DATE OF DECISION : 28.02.1992

SHRI DAL CHAND

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM

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

FOR THE APPLICANT

...SHRI S.S. TIWARI

FOR THE RESPONDENTS

...SHRI JOG SINGH FOR
RESPONDENT NOS. 1 & 2.
SHRI A.K. BEHRA FOR
RESPONDENT NO. 3.

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)

The applicant is son of Shri Moolchand, who was in the employment of CPWD and died in harness on 6.7.90 when he was posted as Assistant Pump Operator in the President's Estate on the roll of CPWD. The applicant is married, though his mother had died earlier to his father. The applicant applied for his compassionate appointment and his application has not yet been disposed of though by the letter dt. 17.12.1990, he was asked to furnish the attested copy of ration card showing the details of the family, a declaration by ^{him} Dal Chand (to look after the family of late Shri Mool Chand, attested copy of the

1

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(10)

school certificate and date of birth. This letter appears to have been compiled by the applicant on 20.12.90. The applicant has also been served a notice dt. 29.8.91 to vacate the premises-quarter No. 45, Teen Murti House, New Delhi, which was allotted to the applicant's father.

2. The deceased is survived by Nathu Ram—the eldest son, the second son—Dal Chand and the third son—Durga Prasad. It is stated by the learned counsel that Dal Chand is also nicknamed as Dhani Ram and an affidavit of Nathu Ram in this connection has also been filed. He has also filed an affidavit that he has no objection for appointment of Dal Chand, i.e., the second son of the deceased employee. In this application, the applicant claimed the relief that the respondents be directed to give suitable ^{compassionate} appointment to the applicant and further to allow the applicant to retain the accommodation presently under his occupation.

3. Respondent Nos. 1 and 2 filed a reply contesting the claim of the applicant. Firstly, it is stated that the application is liable to be dismissed on the ground of concealment of facts and also that the ^{applicant} has married before attaining the age of 21 years. The applicant had already been paid about 23,000 between July, 1990 to April, 1991. As regards DCRG, and family pension, it is to be paid by

(11)

Pay and Accounts Officer and the Controller (Pension) and the case was referred to that authority. The respondents have disputed the identity of the applicant that the applicant, Dal Chand also claimed himself as Dhani Ram. Since the applicant has posed himself as Dhani Ram, so the identity of the applicant becomes doubtful making him unfit for appointment on compassionate ground. It is said that dues have been paid under mistake. The Under Secretary of the President Secretariat has also filed a separate counter in which it is stated that the deceased Mool Chand was allotted quarter No.45 in the President's Estate Pool in accordance with the rules for allotment of residential accommodation in the President's pool. After the death of Mool Chand, his son was permitted to retain the house for a period of six months upto 6.1.1991 free of licence fee. On the request, he was further granted permission to retain the house till 31.7.1991. The applicant, Dal Chand did not vacate the house and notice under Section 4 of the PP Act was served. He made a statement before the Estate Officer that he may be allowed to vacate the said house by 3.9.1991 (Annexure R1). Since he did not vacate the premises, so notice under Section 5 of the P.P. Act was issued to him giving him 15 days' time to vacate the said house. The applicant filed a petition in the Court of Additional District Judge, Delhi against the eviction proceedings (Annexure R2).

J

(12)

The Additional District Judge dismissed the same by the order dt.13.9.91. After that dismissal of the appeal, the present application has been filed in October, 91.

4. The contention of the Executive Engineer, President's Estate is that there are certain rules which govern the allotment of quarters which are ^{at} New Delhi, Borlaum, Dehradun and Shimla. The provision of accommodation given to such persons posted in President's estate is not part of the terms and conditions of service of officers and staff, but is a facility provided for more efficient discharge of duties entirely at the discretion of the President ~~exercised~~ through the authorities designated by him in this regard. Under Rule 13(i) the allotment shall be effective from the date on which it is accepted and will last till the officer ceased to be on duty in Rashtrapati Bhavan. The maximum period of retention of Government ^{after retirement/death} accommodation ^{available is} six months, but the applicant had already been allowed 12 months' period. The applicant has, therefore, no right to retain the said quarter allotted to his father. Respondent No.4 has nothing to do with the compassionate appointment of the applicant, which is the sole concern of the CPWD.

5. We have heard the learned counsel for the parties at length and have gone through the record of the case. In fact,

(13)

the learned counsel for the respondents argued that the applicant may be indigent person, but since he has not filed proof of his identity as Dal Chand as in most of the records, he is shown Dhani Ram, so he has to first obtain a succession certificate under Indian Succession Act, and after the same certificate is furnished, the applicant will be considered for compassionate appointment. Thus it is not disputed to respondents Nos.1 and 2 that the applicant is indigent person and as per instructions of the OM of the Ministry of Personnel, can be given compassionate appointment, but only when the applicant is able to substantiate his identity as son of deceased employee, Mool Chand. There are reasons for a doubt having been created in the mind of respondent Nos.1 and 2 because in the ration card, the photostat copy of which has been filed by the applicant at p-13 of the paper book, there is some over-writing of the word Dal Chand. In the certificate issued by the Principal, there is a name of Dal Chand, son of Mool Chand. It appears that the name in the CGHS card also is wrongly recorded according to the applicant and he has filed an affidavit in that regard at p-17. The fact remains that if a person ^{has} alias, then at least in the application which the applicant has filed, must refer to that name also, but in not doing so, the applicant has not established that what is his actual name and whether he is

6

(14)

the same person who is praying for compassionate appointment as son of late Shri Mool Chand. Thus the learned counsel for the respondents has rightly pointed out that unless the applicant gives perfect evidence of his identity as son of late Mool Chand, his case for compassionate appointment cannot be considered.

6. Another point is regarding the quarter No.45, Teen Murti Bhavan in the President's Estate. The fact is not disputed that this belongs to President's Estate Pool and is only meant for those persons who are posted on service in the President's Estate itself. It is also evident that the applicant has been served with an order of eviction under of P.P. Act, 1971 Section-4L and that has been upheld by the District Court by the order dt.13.9.91 (Annexure R3). It goes to show that the applicant himself was given an undertaking that he will vacate the quarter by 31.10.91. In view of this undertaking by the applicant himself, he cannot claim for further retention on this ground also. Further in para-7 of the application, the applicant has not referred to the fact that earlier the proceedings in the eviction matter under Public Premises Act, 1971 have concluded and that the order has become final. The applicant has also not challenged that eviction order (Annexure R3) in this application. The applicant is guilty of concealing material fact in that regard

6

(15)

and also claimed the relief that the applicant be allowed to retain the Government accommodation. In view of this fact, the relief claimed by the applicant cannot be allowed.

7. This relief can also be not allowed because the eldest son of Mool Chand, Nathu Ram in an affidavit filed showed that his residence is 45, Teen Murti Bhavan. In view of this fact, it is established that the applicant is living with Nathu Ram, who does not seek compassionate appointment and wants to live with the applicant without showing his service and status in the society. Thus the claim of the applicant for compassionate allotment of the quarter to him is also not bonafide. In the application, the applicant has not stated even a single word about Nathu Ram about his elder brother whether he is already in service and employed.

8. Taking all these facts into account, the application is partly allowed with the following directions :

(i) The relief claimed by the applicant to retain the Government accommodation presently under his occupation, i.e., quarter No.45, Teen Murti Bhavan, President Estate is disallowed and the stay granted in that regard is vacated.

16

(ii) Regarding the relief of the applicant for compassionate appointment, the respondents are directed to consider the case of the applicant preferably within a period of three months and the applicant is directed to produce identity that he is one and the same son of Mool Chand known by the name earlier as Dhani Ram and now as Dal Chand in the present application. On this satisfaction, the respondents are directed to give compassionate appointment to the applicant as per Extant Rules. In the circumstances, the parties shall bear their own costs.

AKS

J. P. SHARMA
28.2.92
(J.P. SHARMA)
MEMBER (J)