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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.66/91

Date of decision: 15-07-1993

Shri Pradeep Kumar ... Petitioner
vs.

Union of India through
Secretary,
Ministry of Urban Development
New Delhi & ors. ... Respondents

CORAM: THE HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
THE HON'BLE MR.S.R.ADIGE, MEMBER(A)

For the petitioner ... Sh.S.K.Bisaria, Counsel.

For the Respondents .. Sh.P.P.Khurana, Counsel.

JUDGEMENT
(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN)

The controversy centres round an ad hoc allotment of a Government accommodation to the petitioner.

2. The father of the petitioner one Shri R.N.Zalpuri retired from service as Under Secretary(Legal Affairs), Delhi Administration on 31.8.89. He was allotted a Government accommodation at F-33/2, Andrews Ganj, New Delhi. The petitioner joined the services of the Delhi Administration as Craft Instructor(Mill Wright) in September, 1981 and at present is posted as Craft Instructor(Mill Wright) in ITI(Women). He has been residing in the Government accommodation with his father.

3. Proceedings under the Public Premises Eviction Act were initiated against the father of the petitioner. We are informed that an order of eviction was passed in those proceedings. However, we are not concerned with those proceedings in this application.

4. On 8.11.89, the Assistant Director of

Estates sent a communication to the Delhi Administration ITI Pusa with a copy to the petitioner stating therein that it had not been found possible to consider the request of the petitioner to allot an accommodation. Thereafter, on 29.1.90, the petitioner made a fresh application to the Director of Estates, Government of India, Nirman Bhavan, New Delhi, through proper channel for an allotment.

5. In the reply filed on behalf of the respondents, it is stated that in November, 1989, the petitioner's application for the allotment of an accommodation had been rejected as he was not working in an eligible office at the time of retirement of his father.

6. The Compendium of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963 and the gist of the instructions issued by the Ministry of Urban Development and Directorate of Estates provide, *inter alia*, that a request for ad hoc allotment to an eligible dependent may be considered in case the dependent gets an employment in an eligible office even after the retirement of an officer provided such an appointment is secured within a period of ten months after retirement and that the accommodation in occupation of the officer not has / been vacated.

7. The requirement appears to be that the dependent of a retiring officer should be working in an eligible office on the date an order of allotment of a Government accommodation is passed in his favour. We see no warrant

for the stand taken by the respondents in the counter-affidavit and also at the Bar that a dependent seeking allotment of an accommodation should be working in an eligible office on the date of the retirement of an officer. In the present case, it is an admitted position that in November, 1989, the petitioner was not working in an eligible office. Therefore, no objection can be taken to the order passed in 1989 rejecting his application for allotment of a Government accommodation.

8. According to the petitioner himself on 24.7.90, he commenced holding an eligible office. On the face of it, his application dated 29.1.90 for a fresh allotment cannot succeed as he did not hold an eligible office for a period of 10 months from the date of retirement of his father.

9. The petitioner has filed Misc.Petition No.2199 of 1991 seeking an amendment of this application. During the course of hearing on 12.5.93, we allowed the same with the order that the contents of the application will be taken into account by us while preparing our order.

10. In the said application, it is alleged that on the retirement of ^{one} Shri J.L.Lamba, his son Ram Prakash Lamba applied for allotment of the quarter which had been allotted to Shri J.L.Lamba. Initially he was not eligible for allotment of quarter. Subsequently, on his transfer to G.B.Pant Polytechnic, he became eligible. Therefore, he made a fresh application for regularisation of the quarter which was in occupation of his father. On 2.5.91, the Directorate of Estates sent a communication

to the Principal of G.B.Pant Polytechnic informing him that, keeping in view the Government accommodation(General Pool in Delhi) Rules,1963, the matter had been considered and a decision had been given to regularise the occupation of the quarter in favour of Shri Ram Prakash Lamba although the allotment order in favour of his father had been cancelled earlier.

11. It is urged on behalf of the petitioner that he and Ram Prakash Lamba stood on the same footing in so far as initially both of them were not eligible to be considered for allotment of an accommodation. It is further urged that an order of similar nature should be passed in the case of the petitioner. We have already taken the view that a person seeking allotment as a dependent should be working in an eligible office on the date of consideration of his application and not that he should be working in that capacity on the date of retirement of his father or mother, as the case may be. We have, therefore, no doubt that the authority concerned, while considering the case of the petitioner, will keep in view the order passed by the Director concerned in the case of Shri Lamba and see to it that uniformity is maintained and no ground for alleging discrimination is created.

12. We may clarify that the question of the petitioner and Shri Ram Prakash Lamba being placed on the same footing would arise only if Shri Lamba too commenced holding an eligible office after the expiry of a period of 10 months from the date of retirement of his father, Shri J.L.Lamba.

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15. With these observations, this application is disposed of. The interim order dated 8.1.91 is vacated. No costs.

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(S.R. ADIGE)
MEMBER(A)

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(S.K. DHAON)
VICE-CHAIRMAN(J)

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