

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

(7)

OA 1564/92

Date of Decision : 23.10.92

Kundan Singh

.... Applicant

Versus

Union of India

.... Respondent

CORAM

The Hon'ble Mr I.K. Rasgotra, Member(A)

For the petitioner

Shri K.L. Bhatia, Counsel

For the respondents

Shri M.L. Verma, Counsel

**(JUDGEMENT)**

ORAL

The petitioner's father was working as Bishti in Dr Ram Manohar Lohia (Dr RML) hospital, when he retired from service on 28.2.1991. The petitioner is employed as Theatre Orderly in the same hospital w.e.f. 28.3.1982. He prayed for regularisation of the quarter K-104 (Type A), Clive Square, New Delhi in his name vide his application 6.10.91 but the same was rejected by the respondents vide order dated 13.4.1982, as his case is not stated to be covered by the house allotment rules. It is in this background that the petitioner has approached the Tribunal.

2. The learned counsel for the petitioner Shri K.L. Bhatia, submitted that the petitioner has been living with his father continuously from 2.11.89

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-but before that also he was residing with him but for a short time in 1987. He, however, concedes that petitioner has been drawing House Rent Allowance upto 2.1.89. Relying on Respondents Policy letter dated 1.5.1981, the learned counsel stated that the only condition stipulated for regularisation of quarters in such cases is that the petitioner should have been residing with the retiring government servant for atleast 3 years immediately preceding the date of his retirement. There is no condition that he should not have drawn House Rent Allowance during three years preceding the date of retirement. In regard to condition of residing for 3 years with the retiring government servant Shri K.L. Bhatia, the learned counsel contended that the petitioner vide his letter dated 29.12.87 (annexed to the rejoinder) had informed the respondents that he is residing with his father w.e.f. 1.1.1988. The petitioner has also filed a photocopy of the ration-card which is issued in the name of his father on 1.1.88 and includes among others the name of the petitioner for drawing ration. The learned counsel, therefore, submitted that the petitioner fulfils the only condition prescribed for regularisation of government quarter viz residing with the retiring government servant for 3 years preceding the date of retirement. The

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learned counsel further argued that petitioner is a physically handicapped person and has submitted certificate issued by the Orthopaedic Surgeon of Dr R.M.L. Hospital in this behalf. According to the said certificate the petitioner is orthopaedically handicapped person with permanent partial disability of 40% in relation to both hands. In these circumstances the learned counsel prayed that the case of the petitioner deserves favourable consideration for regularisation of the said quarter which stood allotted in his father's name. He also relied on judgement of the Tribunal in **O.A. 1905/90** delivered on **10.2.92** in the case of **Raj Singh V/s Union of India**, through Secretary, Urban Development and Ors.

3. Shri M.L. Verma, the learned counsel who appeared for the respondents referred us to the rules for allotment of government quarters to dependents/relations of government employees on their retirement as notified in Ministry of Works and Housing O.M. dated 1.5.1981 and Ministry of Urban Development, Directorate of Estates' O.M. dated 19.11.1987 as reproduced in **Swamy's Complete Manual on "Establishment and Administration" (Page-822)**. The relevant condition for regularisation of quarters is contained in paragraph 3 of the 'Manual' <sup>and</sup> reads as under :-

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"He should have been residing continuously

with the retiring Government servant for atleast three years immediately preceding the date of retirement of the Government servant. During the same period of three years he should not have been drawing House Rent Allowance. The condition of non-drawal of HRA is applicable only in case where the dependant is employed in the same station and residing with the official in the same Government accommodation."

Regarding the entitlement for allotment of the quarter on ad hoc basis under the handicapped quota, the learned counsel referred to the counter affidavit (**Page 41 of the book**) where it is clearly stated by the respondents that the case of the petitioner under the handicapped quota was considered but it was found to be not covered under the provisions of O.M. No 12035/(10)/76-Pol II dated 13.1.77 which allow consideration of "requests from those who as a result of their orthopaedic deformity find it very difficult to move freely" on merits. The petitioner is not afflicted by an orthopaedic deformity which makes it difficult for him to move freely. Allotment <sup>scheme is</sup> ~~under this~~ restricted to only those who suffer from severe physical defect or deformity which causes undue interference with the normal functioning of the bones, muscles and joints and consequently making it very difficult to move freely.

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4. Shri M.L. Verma referred to petitioners representation dated 6.10.91 and submitted that he has clearly stated therein **(Annexure R-14 annexed to the counter-affidavit)** that petitioner was appointed theatre orderly on 28.3.82 but due to some domestic problems he was living separately from his father but w.e.f. 1.11.1989 he is staying with his father at his father's residence. He further requested the respondents to discontinue the payment of H.R.A. to him from that date i.e. 1.11.89. The learned counsel stated that there is clear averment on record by the petitioner that he has started living with his father from 1.11.89 and that is the date from which he has asked for discontinuance of payment of H.R.A. In the rejoinder, however, petitioner has taken plea that the date 1.11.89 was mentioned only in respect of discontinuance of H.R.A. This contention, is not borne out by the statement made in the application dated 6.10.91 by him. We, do not, therefore, see any good reason to disbelieve the averments made by the respondents as the petitioner is on record that before 1.11.89 he was living separately from his father due to domestic reasons and has admittedly requested for discontinuance of H.R.A. with effect from 1.11.89.

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5. Learned Counsel for the petitioner Shri Bhatia, referred to the application filed by the petitioner on 29.12.87 to substantiate that the petitioner was living with his father from that date, as he has given the residential address of his father for making a separate C.G.HS card. A bare perusal of this application of the petitioner would indicate that this application is made to get a separate CGHS card for the reasons given therein. It is not possible to draw from it the inference in regard to the status of his residence in view of the specific statement made by the petitioner in his letter of 6.10.1991. This application cannot supersede his clear statement that he started living with his father from 1.11.89 and that he may not be paid HRA from that date. We, therefore, see no good reason to rely on the inference drawn from his application dated 29.12.87 by the Learned Counsel of the petitioner. In these circumstances, we are of the opinion that the petitioner does not fulfil the two conditions viz residence for 3 years with the retiring Government servant preceding the date of his retirement and non-drawal of H.R.A. during that period, essential for the regularisation of Government accommodation.

6. Accordingly, we have no hesitation in concluding petitioner's that the case is not covered by the policy laid down

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by the respondents vide their O.M. dated 1.5.81 and 19.11.87. Secondly, his case for allotment of the quarter under the 'handicap quota' has also been given due consideration under the relevant instructions of the respondent. He was, however, not found to be falling within the ambit of the provisions made in this behalf.

The O.A. is accordingly dismissed. No costs.

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A)

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