

(15)

In the Central Administrative Tribunal  
Principal Bench, New Delhi

Regn. No. OA-2061/92

Date: 13.8.93

Smt. Sudesh Kalhan .... Applicant

Versus

Union of India .... Respondents

For the Applicant .... Shri U.S. Bisht, Advocate

For the Respondents .... None for Respondent 1 and 2  
For Respondent No. 3 .... Shri P.P. Khurana, Advocate

CORAM: Hon'ble Mr. J.P. Sharma, Member (Judl.)

1. To be referred to the Reporters or not?

Single Bench Judgement

The applicant is a widow of Shri Surinder Mehan Kalhan, who was last working as ACSO (Group 'B' post) Air Headquarters, New Delhi and died in harness on 2.10.1991. He was allotted Quarter No.4/40, Lodi Colony from the General Pool by the Directorate of Estates (Respondent No.2). The applicant is also a Central Government employee working in Group 'C' post and was sharing accommodation with her late husband since 30th May, 1972. She was initially appointed as Examiner on 30th May, 1972 in M.I. Directorate, Army Headquarters, but having been declared surplus, she was later on adjusted in the Central Ordnance Depot (C.O.D.) as L.D.C. At the time of the death of her husband, she was working as Junier

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Translator and continues to work in the same capacity in C.O.D. She has not claimed any House Rent Allowance during her whole of the service period.

2. On the death of her husband, she applied for allotment of accommodation to Station Headquarters, Delhi Cantt. as she is eligible for allotment of eligible type of quarter from that Pool. She also made repeated representations and on 17.2.1992, she met the Hon'ble Minister for Urban Development and is reported to have been assured for allotment of eligible type of quarter. Her son, Manej Kalhan, also filed an application in the C.A.T., Principal Bench (OA-1915/92) for compassionate appointment due to the death of his father in harness.

3. The Directorate of Estates, by the order dated 18.12.1991, cancelled the allotment in favour of the deceased employee and also initiated proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. She has been served with a notice under Section 4(1) (b) of the aforesaid Act. She was given a show-cause notice as to why the order of eviction should not be made against her. Subsequently, the Directorate of Estates, by the letter dated 15.3.1993, asked the Administrative Officer (Cash), Air Headquarters, New Delhi for recovery of damages from late Shri Surinder Mehan Kalhan, ACSO, ex-allottee, amounting to about

Rs. 16,835 (Annexure A-3, p. 64).

4. The applicant, in the amended application, assailed before this Tribunal the order dated 20.7.1992 rejecting his request for regularisation of the quarter in his favour, the eviction order under P.P. Act dated 22.10.92 and the order of recovery of damages dated 15.3.1993 and prayed for the grant of the reliefs to quash the impugned orders aforesaid with the direction to the respondents to regularise Quarter No.4/40, Lodhi Colony, in occupation of the applicant, or in the alternative, directing the respondent No.3 to allot another Government residence on ad hoc basis. It is also prayed that the applicant and her family be not evicted from the aforesaid premises till alternative accommodation is allotted to her.

5. The notices were issued to the respondents and respondent Nos. 1 and 2, in spite of several opportunities, did not file any reply. Respondent No.3, Administrative Command, Station Headquarters, Delhi Cantt., filed the reply in which it is stated that though the applicant applied for Type III accommodation on 24th October, 1992 as per entitlement, she was not found eligible because she was too junior in the waiting list maintained by Station Headquarters, Delhi Cantt. The running seniority for allotment of accommodation is 5th January, 1959. However, as per SRO 308/78, the applicant is entitled

for accommodation as she has been residing for more than six months prior to the death of her husband and further, she should be permitted to retain the present accommodation, i.e., 4/40, Ledhi Colony, New Delhi, till such time as her turn for allotment of accommodation from Station Headquarters Pool comes.

6. I have heard the learned counsel for the applicant and respondent No. 3. It is not contested that under O.M. No. 22013(7)/1-Pol.II dated 13.7.1981, the ward of a deceased Central Government employee, if he too is a Central Govt. employee, is entitled to ad hoc 'out of turn' allotment/regularisation of the accommodation which was allotted to the deceased. The conditions are that no H.R.A. should have been charged by the ward and further he should have been sharing accommodation with the deceased employee for about six months before his death. All these conditions are satisfied in this case. Respondent No. 3, in his reply referred to above, has conceded this position and also averred that she may be allowed to retain the earlier allotted premises, 4/40, Ledhi Colony, till such time as the accommodation is made available to her from the C.G.D. Pool. In view of this and non-contest by respondent Nos. 1 and 2 of the reliefs prayed for, the applicant is entitled to get regularised the same accommodation till such time as the alternative one is made

available to her from the Army Headquarters Pool.

7. Since the family of the deceased is entitled to regularisation of the same accommodation or an alternative accommodation of eligible type, the order of cancellation of allotment by the Directorate of Estates dated 20.7.92, cannot be sustained. This is also in view of the fact that the Directorate of Estates is the main supervisory body over various Government accommodations earmarked for different Pools in other organisations of Union of India. The ultimate responsibility lies with the Union of India to carry out its own O.M. of 13.7.1981. Thus, the applicant or her family cannot be made to pay the damage rate of rent and also the proceedings for eviction initiated against her, are ab initio illegal.

8. However, in the recovery ordered from the deceased employee, there is some arrears of rent also relating to the earlier period. The applicant shall be liable to pay the unpaid amount of rent of the period when her husband was alive and she will also pay the normal licence fee after the death of her husband and continue to pay the same till alternative accommodation is made available to her.

9. The learned counsel for the applicant has also referred to a decision of Delhi High Court in the case of

Goel R.P. and Others Vs. Union of India reported in A.I.R. 1966, Delhi, 406. In that case, the Delhi High Court in a similar case, considering the provisions of General Government Residence (General Pool in Delhi) Rules, 1963, SR-3178-25, held that son can be allotted that quarter even though his Press has a separate Pool of accommodation. In the present case also, the deceased was working as ACSO, a Group 'B' post, in the Air Headquarters and entitled for allotment from the General Pool while the deceased is, working in COD, Delhi Cantt., entitled from the Army Headquarters Pool. The learned counsel has also referred to other cases decided by the Principal Bench also. In view of this, the present application is disposed of with the following directions:-

- (a) The impugned orders of cancellation of allotment dated 20.7.1992, the order of eviction dated 22.10.1992 and of recovery of damage dated 15.3.1993, are quashed and set aside.
- (b) Respondent No.3 is directed to allot the eligible type of accommodation to the applicant on ad hoc basis as per O.M. dated 13.7.1981, irrespective of her seniority in the allotment list.
- (c) Respondent Nos.1 and 2 are directed not to evict the applicant from the premises 4/40,

Lodhi Colony, till such time as she is allotted accommodation from the Army Headquarters Pool of eligible type and only realise normal licence fee according to rules.

(d) The applicants shall, however, be liable to pay the arrears of rent of the time of her husband and that which accrued after the death of her husband till the time she continues to live in the said premises, as per normal licence fee and in the event of non-payment, the same shall be recoverable in easy instalments from her salary.

10. This order is without prejudice to any relief which the son may ultimately get in the OA-1915/92 - Manej Kalhan Vs. Union of India. The parties shall bear their own costs.

J. P. Sharma  
(J. P. Sharma)  
Member (J)  
13.8.95