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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2366/92
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DATE OF DECISION 21.01.1993

Shri Samir Kanti Mitra & Anr. **Petitioner^s**

Shri D.R. Gupta **Advocate for the Petitioner(s)**

Versus

Director of Printing & Ors. **Respondent^s**

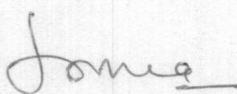
Shri M.L. Verma **Advocate for the Respondent(s)**

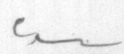
CORAM :

The Hon'ble Mr. P.C. Jain, Member (A)

The Hon'ble Mr. J.P. Sharma, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? y
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? y


(J.P. SHARMA)
MEMBER (J)


(P.C. JAIN)
MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO.2366/92

Date of Decision : 21.01.93

Shri Samir Kanti Mitra & Anr.

...Applicants

Vs.

Director of Printing & Ors.

...Respondents

CORAM

Hon'ble Shri P.C. Jain, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicants

...Shri D.R. Gupta

For the Respondents

...Shri M.L. Verma

J U D G E M E N T

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

Applicant No.1 is the son and applicant No.2 is the widow of Shri Kali Prasad Mitra, who was employed in Government of India Press, Mint Road, New Delhi and died in harness on 6.9.1991. Applicant No.1 applied for compassionate appointment to respondent No.2, Manager, Government of India Press, New Delhi and her mother was informed by the impugned memo dt.11.5.1992 that at present there is no vacancy of labourer against which applicant No.1 can be appointed and the case will be considered whenever any vacancy occurs. The deceased was allotted premises by the Government of India Press No.F-2204 Netaji Nagar, New Delhi and the family continues in occupation of the same even after the death of the employee. A notice has also been issued on 25.8.1992 to applicant No.2 that she is in unauthorised occupation of the quarter and why she should not be evicted from the said premises. On 14.9.1992, the present application under

Section 19 of the Administrative Tribunals Act, 1985 has been filed jointly by the applicants for a direction to the respondents to appoint applicant No.1 against some suitable vacancy in a group 'D' category after declaring the memo dt.11.5.1992 (Annexure A1) as illegal and further to regularise the quarter No.2204 Netaji Nagar, New Delhi in the name of applicant No.1 after his appointment on compassionate ground. On 15.9.1992, interim relief was granted to the applicants that the status-quo as regards occupying the Government quarter in question be maintained subject to payment of normal licence fee etc. in accordance with the Rules.

2. The case of the applicant is that the father of applicant No.1 was employed in Government of India Press on 20.2.1987 and he breathed his last on 6.9.1991 leaving behind the widow, applicant No.2, the major son-applicant No.1 and another minor son-Shri Kishore Mitra, aged 16 years and a minor daughter-Ms.Reena Mitra, aged 12 years. It is further stated that the family does not own any property either moveable or immovable and there is no other source of survival for the family which is in indigent circumstances with no one to earn for the sustenance of the family. It is further stated that since the deceased employee was suffering from illness for a long time, so sufficient amount has been spent on his treatment. The widow, applicant No.2 is getting Rs.675 as monthly pension

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which will be reduced to Rs.405 w.e.f. 6.9.1998. This family pension is hardly adequate to meet the family expenses.

Applicant No.1 applied for compassionate appointment, but his request has not been favourably considered and he was informed that whenever any vacancy arises, his case will be considered.

3. The respondents contested the application and in their reply stated that the request of the applicant will be considered on its turn as and when vacancy arises. It is further stated that in another judgment, the Principal Bench in a bunch of Original Applications decided on 4.2.1992 in its judgment (Annexure B to the counter) gave a direction to the respondents that a viable scheme should be prepared on an All India basis to give relief in such cases to the deserving persons. It is further stated that a common list has since been prepared of 149 deserving cases for compassionate appointment (Annexure A to the counter) and the name of the applicant is also included in the list at Sl.No.143. It is further stated that there are many more senior cases similar to the case of the applicant which are pending for consideration for appointment. As regards the retention of the quarter, it is stated that only upto 6 months after the death of the employee, the quarter could be retained on normal licence fee and thereafter another 6 months payment of at on/damages/ penal rate of rent and after that the eviction proceedings have to be initiated and so the applicants have to vacate the Government premises under extant Allotment Rules.

4. We have heard the learned counsel for both the parties at length and have gone through the record of the case. The applicants have not challenged the viable scheme prepared by the respondents filed as Annexure A to the counter. The respondents have stated that they have prepared the list taking into account the cases of each of such claimants for compassionate appointment and that the appointment shall be given in their own turn on the availability of the vacancy. In the impugned order also, the respondents have only communicated to the applicant that his case will be considered whenever any vacancy arises. The respondents' counsel has also argued that the application be dismissed at this stage as the respondents have themselves taken care to give appointment to applicant No. 1 on his own turn as per the viable list prepared of such claimants for compassionate appointment. The learned counsel for the applicants, however, stressed that his case should have been considered on priority basis and he has placed reliance on the case of Smt. Shushma Gosain Vs. Union of India, AIR 1987 SC 1976 as well as on the case of Phoolwati Vs. Union of India, AIR 1991 SC 469. It is the accepted proposition of law that whenever an employee dies in harness and if the family is in indigent circumstances, one of his legal representatives should be considered ^{for} appointment on compassionate ground. This proposition is accepted by the respondents and the learned counsel for the respondents has argued that the applicant shall be given

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appointment on compassionate ground in his turn as there are many other deserving cases similar to the applicant. Thus the application by the applicant at this stage for a direction to the respondents to give him appointment on priority basis shall be contrary to the directions issued to the respondents in a bunch of cases decided by the Principal Bench by the order dt.4.2.1992, copy of which has been filed by the respondents. Thus the applicant has no case for a preference over such other claimants who are placed above him in the said viable list (Annexure A to the counter).

5. Regarding the retention of the quarter by the applicants till the compassionate appointment is given to applicant No.1, the respondents have taken the stand that there are no rules to permit retention of the quarter beyond a period of one year after the death of the employee and for the first six months charging the normal licence fee and for the next six months charging the penal rate of rent. The learned counsel for the applicant argued that till the compassionate appointment is given to the applicant No.1, the family be allowed to continue as the family shall be uprooted. If this contention is accepted, then it will create problems for the respondents to give housing accommodation to regular employees, who are still working and are on the waiting list. That shall be unequitable because it cannot be prejudged as to when the turn of the applicant will

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reach for appointment on compassionate ground. The Extant Rules for allotment also do not permit the same.

6. The learned counsel for the applicant, however, argued that the Hon'ble Supreme Court has disposed of Writ Petition No.918/91 of Smt.Shipra Bose & Anr. Vs. Union of India by the judgment dt. November 16, 1992. The relevant portion of the judgment is reproduced below :-

"We understand that the petitioners are at present occupying the Government quarters. They are given two years time to vacate the same unless in the meanwhile the petitioner's son gets employment with the respondents. The respondents will not charge to the petitioner rent in excess of the rent which was being charged when the deceased was in service. The petitioner will clear up the arrears of rent calculated on the above basis. The petitioners shall pay the arrears of rent within four months from today. The Writ Petition is disposed of accordingly."

On the basis of the above, the learned counsel for the respondents has left the matter to the Court. Seeing to the indigent circumstances of the family, two years' time as given in that case is allowed to the applicants ^{from 14.9.1992} to vacate the quarter unless in the meanwhile, the applicant No.1 gets employment with the respondents. The respondents will only charge the normal licence fee upto that period.

7. The present application is, therefore, partly allowed with a direction to the respondents to give applicant No.1 compassionate appointment in its turn on the basis of the viable list (Annexure A to the counter) and also to allow the family

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to retain the Government quarter/for a period of 2 years from
the date of application, i.e., 14.9.1992. The applicants
shall vacate the said premises after 2 years unless in the
meanwhile applicant No.1 gets employment with the respondents.
In the circumstances, the parties shall bear their own costs.

J.P. Sharma
(J.P. SHARMA)
MEMBER (J) 21.1.93

P.C. Jain
(P.C. JAIN)
MEMBER (A)

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