

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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(10)

O.A. NO. 2515/92

DATE OF DECISION : 12.02.93

Shri Alois Tirkey & Anr.

.... Applicants

Vs.

Union of India & Anr.

... Respondents

CORAM

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

For the Applicants

... Shri K.C. Mittal

For the Respondents

... Shri P.P. Khurana

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

Applicant No.1 is the father who retired on 13.4.1989 from the Department of Civil Aviation and was allotted Type-B Government accommodation bearing No.E-1495 Netaji Nagar, New Delhi in March, 1974. Applicant No.2 is the son of applicant No.1 who has been living in the said premises with his father since his childhood and was appointed as LDC from 22.3.1982 in the Department of Food, Ministry of Food and Civil Supplies and has been working now as UDC in the same Ministry. On 8.9.1989, applicant No.2 applied for regularisation of the aforesaid quarter in his name after the allotment was cancelled in the name of his father. Applicant No.2 was not drawing any HRA since his appointment as UDC under the Central Government in the Ministry of Food and Civil Supplies. Applicant No.2 made representation one after

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the other, but the aforesaid quarter was not regularised in his name. The Director of Estates has drawn proceedings under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and passed the order of eviction dt.7.12.1990, the appeal against which was also dismissed on 29.8.1992. The said order of eviction was passed against applicant No.1. As a consequence of this eviction order, the applicants were dispossessed from the said allotted premises on 20.8.1992.

2. The present application has been filed under Section 19 of the Administrative Tribunals Act, 1985 on 16.9.1992 against the aforesaid order of eviction as well as for cancelling the order dt.23.4.1992 for payment of market rent for the aforesaid accommodation.

3. The applicants in the present application have prayed for the grant of the relief that applicant No.2 is entitled to regularisation of the Government accommodation on retirement of applicant No.1 w.e.f. 30.4.1989 and directing the respondents to hand over the possession of the accommodation No.E-1495 Netaji Nagar, New Delhi in the name of applicant No.2.

4. The notices were issued to the respondents, but the respondents did not file any reply to the application inspite of

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a number of opportunities afforded to them. However, the learned counsel for the applicants appeared at the time of final hearing of the matter on 1.2.1993.

5. The case of the applicant is that in view of the OM NO.12035(7)/79-POL.II Ministry of Works and Housing (Director of Estates) dt.1.5.1981 on the subject of consideration of ad-hoc allotment of general pool accommodation admissible to eligible dependents/relations of Government employees on their retirement. The aforesaid circular clearly lays down that in view of the provision under SR-317.B-25 of the Allotment of Residences (General Pool) in Delhi Rules, 1963, when a Government servant ~~who~~ is an allottee of a general pool accommodation retires from service, his son may be allotted accommodation from the general pool on ad-hoc basis provided the said relation is a Government servant eligible for allotment of accommodation in general pool and had been continuously residing with the retiring Government servant for at least three years immediately preceding the date of his retirement. The eligible dependent will be allotted accommodation of a type below his/her entitlement provided that ⁱⁿ no case except otherwise specified allotment will be made in a higher type of quarter than in occupation of the retiring Government servant. There is also a proviso that where the

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Government servant is entitled to type-II or any higher type of accommodation, he/she will be allotted accommodation in Type-II on ad-hoc basis even if the retiring Government servant was occupying Type-I accommodation. Applicant No.2 has duly applied to the respondents. The respondents, however, informed applicant No.1 on 12.6.1991 by the Memo (Annexure P 4), which is reproduced below :-

"Consequent upon ^{the} retirement of Shri Alois Tirkey who was the allottee of quarter No. E-1495 Netaji Nagar, New Delhi and the allotment was cancelled in his name and the aforesaid quarter is under pending consideration for regularisation in favour of Shri Valeois Tirkey, who is working in the Office of Food and Civil Supplies, Department of Food, Krishi Bhawan, New Delhi, which is eligible office for GP Accommodation, so the above mentioned quarter may be evicted."

The Director of Estates has passed the eviction order dt.30.11.1990 (Annexure P5). Applicant No.2 made representations thereafter annexed to the application as Annexure P6 collectively on various dates and also addressed representation to the Hon'ble Minister for Housing and Urban Development, but the applicant ^{no 2} has not been regularised the said quarter.

6. It is evident from the record that the applicant is eligible for allotment of general pool accommodation working in the Central Government department in the Ministry of Food and so the respondents should have considered his case under the aforesaid OM of May, 1981. The Director of

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Estates did not consider the case of the applicant on their own office's instructions and order of eviction has been passed with the result that the said quarter was got forcibly vacated from the applicant. It is not disputed that the applicant has not been claiming any HRA since he joined as LDC in 1982 in the Ministry of Food and in due course of time has been promoted as UDC. It is also not disputed that the applicant has been constantly living with his father upto the date of his^u retirement. Thus applicant No.2 is entitled to eligible type of quarter. Since there is no fault of applicant No.2 to apply for regularisation of the quarter and it is own fault of the respondents, so applicant No.1 shall be liable to pay only the normal licence fee which he was paying earlier.

7. After hearing the learned counsel for the respondents, I am of the view that the present application has to be partly allowed.

8. The present application is, therefore, partly allowed with the following directions :-

- (a) The respondents are directed to allot the premises No.E-1495 Netaji Nagar, New Delhi in the name of applicant No.2 and in the event the said premises are not available, then any other eligible type of premises in the same locality to applicant No.2 or in the nearby

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locality within a period of preferably three months from the date of receipt of a copy of this judgement.

- (b) The respondents shall realise only the normal licence fee as applicant No.1 was paying before his retirement on 30.4.1989 for the period he remained in occupation of the said premises No.E-1495 Netaji Nagar New Delhi. Notice of recovery dt.30.4.1992 is, therefore, quashed.
- (c) In the circumstances of the case, the parties are directed to bear their own costs.

J.P. Sharma
(J.P. SHARMA)^{12.2.92}
MEMBER (J)