

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

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O.A. No. 2543/1992

Date of Decision: 17.9.93

Shri Lakhmi Chand Sharma
and Others.

Applicant

Versus

Union of India and
Others

Respondents

CORAM:

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

Hon'ble Mr. S. Gurusankaran, Member(A)

For the Applicant

Shri M.K. Gupta, Counsel.

For the Respondents

Shri P.P. Khurana

J U D G E M E N T (GRAL)

(Delivered by Hon'ble Mr. S. Gurusankaran, Member(A))

Since the basic question of law involved in both cases is the same, this application was heard along with O.A. 2544/1992, which has been dismissed today by a detailed order separately.

Except for some differences in dates and some minor facts, the essential features of both cases are the same. In this case, the applicant no.1 was working under Respondent (R for short) no.2 and superannuated with effect from 31.12.1986. During service he was allotted a quarter. Applicant no.2 (A2 for short) is the son of Applicant no.1 (A1 for short) and joined the office of R-3 as Lower Division Clerk on 15.1.1980. A2 is residing with A1 and has not been drawing HRA from December, 1983. After granting the concessional period of 4 months after superannuation, the allotment in favour of A1 was cancelled with effect from 1.5.1987. A2 made a request sometime in 1988 through proper

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channel to R1 for allotment of Government accommodation in his favour. But vide letter dated 3.5.1988 (Annexure-A2) R1 returned the application in original stating that the quarter belongs to Press Pool. It is the case of the applicants that this decision is illegal, unjust and arbitrary.

2. Subsequently eviction proceedings were initiated by R2 against A1 and eviction order was passed on 22.9.1988. A1 challenged the same before Additional District Judge vide PPA No.102 and 103 of 1989 and the same was disposed off on 15.2.1990 accepting the appeal and remanding the case back to the Estate Officer of R2 to decide the same in accordance with law. A1 filed a suit no.176/1990 again before the Sub-Judge I Class, Delhi, and the same was decreed on 7.2.1991 with costs restraining R2 from dispossessing the plaintiff from his quarter without holding proper enquiry as per directions of the Appellate Court vide order dated 15.2.1990. In fact R-2 had raised the question of jurisdiction of the Civil Court in PPE Act cases and the Sub-Judge held that the respondent failed to point out any provisions of the Act under which the jurisdiction of the Civil Court is barred in an injunction suit, where the Estate Officer acted beyond his jurisdiction mala fide and something was got signed from the Plaintiff under coercion and threats. In the light of the judgement, the applicants are still occupying the quarter. On 31.10.1991, A2 made a representation to R1 through R3 requesting him to consider his case for ^{allotting} adhoc accommodation. This representation has not been considered and replied. Hence, the applicants have filed this application and have prayed for

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the following reliefs:

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(i) declare that the applicant no.2 is entitled to regularisation/allotment of Govt. accommodation;

(ii) direct the respondents to regularise the Govt. accommodation, i.e., F-2217, Netaji Nagar, New Delhi, in favour of applicant no.2 with effect from 1.1.1987, which is the date of retirement of the applicant no.1 with all consequential benefits, i.e., payment of normal licence fee etc;

(iii) direct the respondent no.2 to refund the excess amount deposited by the applicant no.1 on account of licence fee;

(iv) direct the respondent no.2 not to charge either damages or market-rent of the premises in question;

(v) allow the costs of the proceedings;

(vi) pass any other order or orders which this Hon'ble Tribunal may deem just and equitable in the facts and circumstances of the case.

3. The applicants had also prayed for interim relief to restrain the respondents from evicting the applicants from the quarters and directing the respondents to regularise the quarter in favour of A2. Notice was issued to the respondents and interim order directing that A2 should not be evicted was passed on 30.9.1992, which has been continued till date. R2 has filed reply contesting the application. R1 and R3 have not filed reply and are also not represented, even though notice has been served on them. We have heard Shri M.K. Gupta, for the applicants and Shri P.P. Khurana, for R2.

4. From the above facts, it is clear that the circumstances and the essential facts of the case are more or less similar with O.A. 2544/1992, which has been dismissed today by a detailed order separately. Hence, we do not propose to

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deal with all the aspects in detail and we direct that a copy of the order in O.A. 2544/1992 be attached to this order for reference.

5. It is clear from the facts of the case as represented even by the applicant that A2 made a request to R1 only sometime in 1988 for regularisation of the quarter allotted to A1 in his favour. It has not been disputed by the applicants that A1 never made a request for retention of the quarter beyond 1.5.1987 and neither A1 nor A2 never made a request in the prescribed proforma for regularising the quarter allotted to A1 in favour of A2 till sometime in 1988 i.e., after the cancellation of allotment had become final and just before or after the eviction order was passed. Thus in this case, even the request for regularisation was very belated. After the cancellation of the allotment in 1987, the applicants did not approach this Tribunal and have not also filed any M.P. for condonation of delay indicating as to why they could not approach this Tribunal from 1987 to 1992. We, therefore, find that this application is hopelessly time-barred and is liable to be rejected on that ground alone.

6. The applicants have not also prayed for the relief of setting aside the cancellation of allotment order by R2 and the reply of R1 regretting the request of A2 for regularisation of the quarter. As long as these orders remain, the reliefs prayed for by the applicants cannot be granted. Even if these orders are arbitrary or illegal or void, this Tribunal cannot declare it so, since the limitation period to challenge them is over long time ago and by lapse of time, they have become final.

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7. It is clear from the instructions that the Press-Pool quarter occupied by A1 cannot be regularised in favour of A2. In view of our finding that the application is hopelessly time barred and the orders of R1 and R2 have become final, we are not inclined to give any directions to the respondents. For the same reasons, we reject the plea of discrimination.

8. In the result, we find no merit in this application and accordingly dismiss the same. The interim orders passed on 30.9.1992 and continued further is vacated. As directed, a copy of order passed today in O.A . 2544/1992 be attached to this order.

9. Before we part with the case, we may observe that the orders of the Sub-Judge dated 7.2.1991 are not under challenge before us.

S. Gurusankaran
(S. GURUSANKARAN)
MEMBER(A)

J.P. Sharma
(J.P. SHARMA) 17.9.93
MEMBER(J)

Forwarded by me
J.P. Sharma
17.9.93

MR.