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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

O.A.No.2716 of 1992

New Delhi this the 2nd day of December, 1993

Mr. Justice S.K. Dhaon, Vice-Chairman

Shri Ravinder Kumar
R/o 759, Netaji Nagar,
New Delhi-110023.

...Petitioner

By Advocate Shri D.R. Gupta

Versus

1. Directorate of Estates,
Nirman Bhavan,
New Delhi.

2. Executive Engineer(E),
Mechanical & Workshop Division,
East Block, R.K. Puram,
C.P.W.D.,
New Delhi.

...Respondents

By Advocate Shri P.P. Khurana

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

The controversy relates to the allotment of Quarter No.D-579, Netaji Nagar, New Delhi.

2. The father of the petitioner, Shri Babu Ram, retired as a Government servant on 30.09.1988. In 1982, the petitioner was employed as a muster roll Khalasi. Sometime in February, 1989, the petitioner made an application for the allotment of the said accommodation to him. This application was duly forwarded by the authority concerned on 15.5.1991 to the relevant authority. On 02.05.1991, the petitioner was appointed as a regular Khalasi.

3. On 15.07.1991, the Assistant Director of Estates (T-AB) sent a communication to the Ex-Engineer(E), Mechanical & Workshop Division, CPWD, Netaji Nagar, AWH Comp., New Delhi to the effect that the application of the petitioner for the allotment of the said accommodation could not be accepted since the allottee had retired from an ineligible office. This communication is being impugned in the present

application.

4. Admittedly, the allottee of the aforesaid accommodation was Shri Babu Ram, the father of the petitioner. On 30.09.1988, the Coordinating Director of National Airports Authority issued a Memorandum, the subject of which was: "retirement from Government service - Shri Babu Ram, Peon". In paragraph 1 of the said Memorandum it is categorically stated that Shri Babu Ram stands relieved from Government service with effect from 30.09.1988. A certificate dated 28.01.1991 issued by the Executive Director, National Airports Authority, Delhi Region, New Delhi stating therein that Shri Babu Ram was on deputation in National Airports Authority w.e.f. 1.6.1986 was shown to me. The aforesaid two documents amply demonstrate that on the date of his retirement, Shri Babu Ram was in Government service. In the impugned communication no reason whatsoever has been given as to why Shri Baby Ram was considered to be holding an ineligible office at the time of his retirement.

5. Despite several opportunities being granted to the respondents, no counter-affidavit has been filed. In the absence of any counter-affidavit, the averments made in the application have not only to be accepted as correct but an adverse inference can also be drawn keeping in view the contents of the aforesaid two documents. I have no hesitation in recording the finding that the view taken in the impugned communication that Shri Babu Ram held an ineligible office is irrational. It is not based on any material whatsoever.

6. Shri Khurana, the learned counsel for the respondents has tried to salvage the impugned Memorandum. He has urged that since the petitioner was merely a muster roll Khalasi on the date of retirement of his father, Shri Babu Ram, and

his services were regularised on 2.5.1991, i.e., after the date of retirement of his father, he (the petitioner) is not entitled to the benefit of the relevant O.M. which deals with the allotment of accommodation. On 13.04.1982 an Office Memorandum was issued stating therein that an employee working on an ad hoc basis on the date of retirement of his/her parent can also be given the concession of the OM dated 1.5.1981 for the purpose of allotment in case his or her service was regularised subsequently without any break. Shri Khurana contends that a muster roll khalasi cannot be considered to be working on an ad hoc basis. On practical plain, I fail to distinguish between a muster roll Khalasi and a Khalasi working on an ad hoc basis. Moreover, a Division Bench of this Tribunal in O.A. 1856 of 1990 decided on 10.01.1999 has taken the view that a casual labour should be put at par with an ad hoc employee for his entitlement to the Government accommodation on the retirement of his father. This decision is apposite and is binding on me.

6. This application succeeds and is allowed. The impugned communication dated 15.07.1991 is quashed. The aforesaid accommodation shall be deemed to be allotted to the petitioner. It goes without saying that the petitioner will be liable to pay arrears of rent, if any, and is also liable to pay normal rent month by month.

7. No costs.

S.K. DHAON
(S.K. DHAON)
VICE CHAIRMAN
02.12.1993

RKS