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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2794/92

DECIDED ON : 3.3.93

Ram Nath

... Applicant

Vs.

Union of India & Another

... Respondents

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri S. K. Sawhney, Counsel for Applicant

Shri R. L. Dhawan, Counsel for Respondents

J U D G M E N T

The applicant, Diesel Fitter, has earlier filed O.A. No. 172/92 along with his father Shri Chiddu, assailing the order dated 24.10.1991 by which the respondents issued show cause notice to the applicants in that O.A. as to why the proceedings under section 190 of the Indian Railways Act, 1989 be not drawn against them for unauthorisedly retaining Railway quarter No. 13/6, Sarojini Nagar, even after retirement of Shri Chiddu w.e.f. 30.6.1982. It was also further directed as to why recovery of damages be not made for unauthorised retention of the said quarter. During the pendency of the aforesaid original application the respondents have withdrawn the said show cause notice as well as the order issued in that regard. In that O.A. Shri Chiddu, the retiree, had prayed for the grant of gratuity and other retirement benefits. It was also prayed in that O.A. that the premises No. 13/6, Sarojini Nagar be regularised in the name of Ram Nath son of the retiree Chiddu as he is entitled to the allotment as well as regularisation under the circular of the Railway Board dated 15.1.1990. That

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O.A. was disposed of by the judgment dated 14.2.1992 with the direction to the respondents to pay the terminal benefits as per extant rules to the retiree, Shri Chiddu and also consider allotting the eligible type of quarter to the present applicant, namely, Ram Nath. In pursuance of the direction issued in O.A. No. 172/92, the respondents vide memo dated 5.10.1992 allotted quarter No. 74/D-3, Type-I, in Tughlakabad and asking the vacation of quarter No. 13/6, Sarojini Nagar which was allotted to retiree Chiddu while he was in service with the respondents.

2. In the present O.A. the aforesaid memo dated 5.10.1992 has been assailed praying that the said order be quashed and that the premises 13/6, Sarojini Nagar be regularised in the name of the present applicant as per the Board's letter dated 15.1.1990, a copy of which is annexed as Annexure A-3 to the O.A. It is further averred that the applicant is entitled to type (II) quarter but he will be contended if quarter No. 13/6, Sarojini Nagar is regularised in his name as per para 2 of the Railway Board's letter (supra). The applicant has also referred to certain examples in the application⁴ where the incumbents are working in Tughlakabad Shed, yet they have been regularised the quarter in Sarojini Nagar and para 4.9 of the O.A. names those persons.

3. The applicant has claimed for the grant of the following reliefs :-

- i) Quash the illegal order dated 5.10.92 Annex.A1
- ii) Direct the Respondents to regularise the Railway Quarter No. 13/2, Railway Colony, Sarojini Nagar, New Delhi in the name of Applicant under the provisions of para 2 of Railway Board letter Annex.A3.

- iii) Grant any other relief as this Hon'ble Court may deem fit;
- iv) Award costs of this application."

4. The respondents contested the application and opposed the grant of the reliefs to the applicant taking the main objection that the applicant is working at Tughlakabad and is eligible for allotment of quarter at Tughlakabad only. It is further stated that the applicant is not entitled to out-of-turn allotment of quarter at Sarojini Nagar because of a letter issued in this regard by the GM/Engineering No. 290-W/14 Pt.VI(W.Qrs.) dated 31.3.1977 (Annexure R-1). It is further stated that the request for regularisation of the quarter in Sarojini Nagar has not been granted to the applicant in the earlier O.A. in which he was also one of the applicants and so the matter cannot be again pursued by the applicant for the same relief in the present application.

5. I have heard the learned counsel for the parties at length and perused the record. The Railway Board's letter dated 15.1.1990 (Annexure A-3) on the subject of regularisation of allotment of Railway quarters in the name of eligible dependants of the Railway employees who retire from service lays down in relevant para 2 as follows :-

"2. When a Railway employee who has been allotted railway accommodation retires from service or dies while in service, his/her son, daughter, wife, husband or father may be allotted Railway accommodation on out of turn basis provided that the relation was a railway employee eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway employee for at least six months before the date of retirement or death and had not claimed any H.R.A. during the period. The same residence might be regularised in the name of the eligible relation if he/she was eligible for a residence of that type or higher type. In other cases a residence of the entitled type or type next below is to be allotted."

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Note (V) and (VIII) below para 3 are also relevant which are reproduced below :-

"(v) Adhoc allotment of lower type of accommodation has to be restricted to the same area or adjoining area where retired employee is having the accommodation. However, licence fee/damages will have to be paid by the retired employee as per relevant rules/extant instructions if there is any delay in allotment of alternative accommodation due to restriction of allotment to such colony."

"(viii) If an employee's dependent is already drawing HRA and stops drawing the amount six months before the retirement of this employee concerned, the dependent is not eligible for allotment/regularisation of quarter."

6. In the earlier O.A. No. 172/92 the relief of regularisation of quarter No. 13/6, Sarojini Nagar was also in issue. That relief was not granted to the applicant. It was only observed that the respondents will consider allotting on out of turn basis an eligible type of quarter to the applicant. The respondents in pursuance of that observation in the aforesaid judgment allotted the quarter No. 74/D-3 Type-I in Tughlakabad by the impugned memo dated 5.10.1992. There is a reason behind the same. The respondents have enforced a scheme by the aforesaid letter dated 31.3.1977 (Annexure R-1) on the subject of quarters for Class III and Class IV staff in Delhi area. The case of the applicant falls in para 1 Pool 'C' controlled by DS/Delhi meant for allotment to staff posted at Tughlakabad. It is not disputed that the applicant is posted as a Diesel Fitter in Tughlakabad Shed. Thus, there is sufficient compliance with the observation made in O.A.172/92. Of course, the respondents have allotted type-I quarter in lieu of the quarter in occupation by the retiree in Sarojini Nagar. However, this is in accordance with the relevant scheme referred to above. That scheme is not under challenge. The learned

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counsel for the applicant also conceded during arguments that he may prefer a type II quarter in Pool 'C' aforesaid. Seeing to the circumstances of the case and the paucity of the accommodation available with the respondents having a big queue in waiting list and also that the allotment is on out of turn basis, the allotment in Tughlakabad of type I quarter cannot be found fault with. It is not the case of the applicant that type-II quarter in Tughlakabad in Pool 'C' is available and the same has not been allotted to him. On the principles of equity also, when the applicant is satisfied with the retention of type-I quarter in Sarojini Nagar meaning thereby that such type of quarter is sufficient for his requirement, then allotment of a similar type of quarter in Tughlakabad will not put him to disadvantageous position.

7. The applicant also did not make a proper representation that he should be provided with Type-II quarter in Tughlakabad nor any such relief has been claimed by the applicant in the present O.A. The applicant has only prayed that the quarter in Sarojini Nagar allotted in the name of Shri Chiddu be regularised in his name. The respondents in their reply have specifically averred that "type-II quarter will be allotted to him from the pool at Tughlakabad as and when the same falls vacant for allotment to his category of staff". This undertaking is sufficient compliance of the observations made in the judgment in earlier O.A. No. 172/92.

8. The contention of the learned counsel for the applicant is that the same type of premises has been allotted to the wards of retiree in Sarojini Nagar while the wards are working at Tughlakabad. Even if this is accepted as a correct statement of fact, it would not warrant any regularisation in favour of the applicant in view of the clear scheme in this regard

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enforced by the above quoted letter dated 31.3.1977. Learned counsel for the applicant also argued that the circular of the Railway Board dated 15.1.1990 has superseded the letter dated 31.3.1977 cannot at all be accepted. The circular only lays down the norms for out of turn allotment/regularisation of quarters in the name of the wards of the Railway employees who retire or suffer casualty while in railway service. The scheme laid down in the letter dated 31.3.1977 specifies the pools under which the allotment of quarter is to be made at particular places taking into account the place of work of the railway employee. In fact, the applicant is being given a quarter near to his place of work which would not only be convenient to him but would also add to efficiency in discharge of his duties by taking shortest possible time in joining the job he has to discharge.

9. The present application, therefore, is totally devoid of merit and the impugned letter of allotment does not call for any interference. The stay granted on 29.10.1992 of maintaining status quo is vacated. The O.A. is accordingly dismissed leaving the parties to bear their own costs.

J. P. Sharma
3.3.93
(J. P. Sharma)
Member (J)