

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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RA 70/93 in OA 2613/92

Date of Decision : 22.3.93

Smt. Usha Joshi & Anr. Vs. Union of India & Anr.

ORDER (By Circulation)

The applicant has filed this RA against the judgement dt. 26.2.1993 by which the application of the applicants was dismissed. Applicant No.1 is posted as Section Officer in the Directorate of Economic and Strategic, Ministry of Agriculture and has since been allotted eligible type of quarter No.709, Sector IV, R.K. Puram on 14.7.1992. Applicant No.2 is the husband of applicant No.1, who is a retired employee and is retaining the allotted quarter No.A 40 Pandara Road, New Delhi even after retirement w.e.f. 31.8.1989. At the time when the applicant No.2 retired, his wife-applicant No.1 was not eligible for the allotment of this quarter as her basic pay was less than Rs.2800 and she got that basic pay w.e.f. 1.11.1990. The grievance of the applicants has been that quarter No.A 40 Pandara Road, New Delhi has not been regularised in favour of applicant No.1. In the aforesaid application, the prayer was made that the government quarter at Pandara Road be regularised in favour of applicant No.1, that they may not be charged market rate of rent/damages for retention of the Government residence A40 Pandara Road. The above application was dismissed as devoid of merit by a reasoned judgement under review. The grounds for review taken in the present application are that the applicant was deprived of filing written brief, but for this, the applicant is

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himself at fault because the final arguments in this case were closed when oral submissions have been exhaustively submitted by respective parties on 22.2.1993. The matter cannot be reopened, therefore, for fresh arguments as the Bench has become functus officio after delivery of this judgement on 26.2.1993.

The applicants have also taken the ground that in another judgement in Dr.A.Golani Vs. Union of India, decided on 4.9.1992 by the Principal Bench and the OM No.12035(10)/77-POL-II dt.9.11.1978 be taken into consideration now. We have considered the matter afresh in the light of the above. The judgement in the case of Dr.A.Golani does not apply to the present case at all. In the present case, applicant NO.2 retired w.e.f. 31.8.1989. Applicant No.1 was not eligible for allotment of the residence No.A40 Pandara Road because her basic pay was less than Rs.2800. Any retention of the quarter after that is unauthorised, particularly because of the fact that another residence has already been allotted to applicant No.1 of eligible type in R.K. Puram. Regarding the aforesaid notification, that notification itself provides that for change of residence under SR-317-B-15, the name would be included in the changed waiting list for the particular entitled type of quarter. Applicant No.1 has not shifted to the allotted residence at all. As such, the aforesaid notification also does not help the case of the applicants.

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As provided by Section 22 (3)(f) of the Act, the Tribunal possesses the same powers of review as are vested in a civil court while trying a Civil Suit. As per the provisions of Order XLVII, Rule 1 of the Code of Civil Procedure, a decision/judgement/order can be reviewed :

- (i) if it suffers from an error apparent on the face of the record; or
- (ii) is liable to be reviewed on account of discovery of any new material or evidence which was not within the knowledge of the party or could not be produced by him at the time the judgement was made, despite due diligence; or
- (iii) for any other sufficient reason construed to mean 'analogous reason'.

The case of the applicants does not fall in any of the aforesaid grounds. The Review Application is totally devoid of merit and is, therefore, dismissed by circulation.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

J.P. Sharma
(J.P. SHARMA) 22.3.93
MEMBER (J)