

DECIDED ON : 19.05.1993

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Applicant

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Respondents

CORAM :

Shri B. Krishna, Counsel for the Applicant

Shri P. P. Khurana, Counsel for the Respondents

J U D G M E N T (ORAL)

In this application the applicant, Shri Jaswant Rai, a Lower Division Clerk (Civilian Staff), Naval Headquarters, New Delhi under the Ministry of Defence has challenged the order dated 16.4.1990 cancelling the allotment of residence bearing No. Sector-VII/1136, R. K. Puram, New Delhi in the name of his father and the eviction order dated 2.1.1991 on the ground that after retirement of his father he was entitled to be allotted the said quarter.

2. The father of the applicant, Shri Amir Chand, retired from Government service w.e.f. 31.7.1988. The applicant was appointed as LDC on ad-hoc basis in January, 1987 and even though there were a few technical breaks of 2-3 days after each spell of engagement, his services continued till regularisation w.e.f. 5.9.1990. Thus, he became eligible for allotment/regularisation of the same Government accommodation as was allotted to his retiree father.

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3. On 23.3.1992, this Tribunal passed an interim order directing the respondents not to dispossess the applicant from Government accommodation at Sector-VII/1136, R. K. Puram, New Delhi, subject to his liability to pay licence fee. This interim order has continued till date.

4. In spite of service of notices, no counter was filed by the respondents and it was only at the time of final hearing that Shri P. P. Khurana, learned counsel for the respondents, appeared for arguments. The main points raised by him were - (a) the applicant was not sharing the above accommodation with his father for three years; (b) he was only an ad-hoc employee; and (c) it is now known whether he was drawing house rent allowance or not. As regards his first objection, the learned counsel for the applicant has drawn my attention to O.M. dated 1.5.1991 issued by the Ministry of Works & Housing, the relevant portions of which are extracted below :-

"In case, however, a person is appointed to Government service within a period of three years preceding the date of retirement or had been transferred to the place of posting of the retiring Government servant any time within the preceding three years, the date on which he was so appointed or transferred would be the date applicable for the purpose. This decision would cover cases of Government servants retiring on or after 7.11.79."

As regards the question of regular employment he has drawn my attention to O.M. dated 11.2.1982 which clarifies that the concession of ad-hoc allotment to the eligible ward of a retired Government servant will also be extended to those employees who were working in the offices which are eligible for general pool accommodation on ad-hoc basis on the date of retirement of their parents but were subsequently regularised without any break in service between the period

of ad-hoc appointment and regular appointment. As regards drawing of HRA, my attention has been drawn to the application in prescribed form forwarded by the Civilian Staff Officer to the Estates Officer on 28.1.1991 wherein a declaration has been made by the applicant that he has not been drawing HRA since 5.9.1990. Learned counsel for the applicant clarified that during the period of ad-hoc appointment from 1.1.1987 to 4.9.1990 the applicant was not entitled to draw any HRA.

5. In view of the abovementioned consideration, I hold that the applicant is entitled to succeed and the impugned orders dated 16.4.1990 and dated 2.1.1991 are hereby quashed and set aside. The applicant shall be entitled for regularisation of the said accommodation with effect from the date of cancellation of the same, i.e., 30.11.1988. These orders shall be complied with by the respondents within two months from the date of receipt of a copy of this order. No costs.

B. N. Dhoundiyal
(B. N. DHOUNDIYAL) 19/5/93
MEMBER (A)