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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1998/93

New Delhi this the 5th Day of September, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Smt. Suraj Mukhi,
Widow of late Sh. Shiv Raj,
R/o 661, Type-II,
Sector-2, Sadiq Nagar,
New Delhi-49. Applicant

(through Sh. Ranjan Mukherjee, counsel)

versus

1. Union of India,
through the Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi.
2. The Chief Engineer(NDZ),
C.P.W.D., New Delhi-11.
3. The Supdt. Engineer,
Delhi Central Elect.Circle IV,
C.P.W.D., New Delhi-11.
4. The Executive Engineer(E),
Central Elec.Division VIII,
C.P.W.D., New Delhi-11.
5. Shri G. George Parachen,
Estate Officer & Asstt.,
Director of Estates (Lit.),
Director of Estates,
Room No.411, 'B' Wing.,
Nirman Bhavan,
New Delhi-11.
6. The Secretary,
C.P.W.D., New Delhi-11. Respondents

(through Sh. VSR Krishna, counsel)

ORDER(ORAL)

delivered by Hon'ble Mr.B.N. Dhoundiyal, Member(A)

Heard the learned counsel for the parties
and perused the records.

The admitted facts of the case are that
the applicant's late husband Sh. Shiv Raj was
working as Wireman in C.P.W.D. under the Chief
Engineer. He died in harness on 10.3.1988 leaving

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behind his widow, four unmarried daughters and three sons. The deceased employee was allotted Quarter No.661, Sector-II, Sadiq Nagar, New Delhi where the applicant alongwith her dependents is living at present. On her husband's death, she applied for compassionate appointment which was rejected on the ground that on the death of her husband she has received an amount over Rs.70,000/- and was also getting pension. Relying on the judgement in the case of Sushma Gosain (1990 (1)SLJ 118 and the case of Gerard George Joseph Vs. U.O.I. & Ors. (1989)10 ATC 782), this Tribunal held that in such cases immediate assistance was necessary and considering the number of dependents and rise in prices and the amount received at the time of death of her husband should not be a bar for compassionate appointment. The following orders were, therefore, passed:-

"We are, therefore, of the view that this O.A. should be allowed. We, therefore, allow this O.A. and direct the respondents to give compassionate appointment to the applicant who is an uneducated lady on the post of Peon/Khalasi within a period of three months from the date of the receipt of a copy of this judgement. We further direct the respondents (including Respondent No.5) in consequence thereof, to provide her Type I quarter to which

the Peons/Khalasis are entitled and only then ask her to vacate the present premises she is occupying."

Later, the applicant came again ^{for} ~~came~~ to this Tribunal with MP-1957/93 when penal rent was levied and a sum of Rs.46,079/- was being recovered from her. As this point had not been raised in the O.A., MP-1957/93 was dismissed on 20.7.93, making it clear that it will be open to the applicant to file a fresh O.A. The present O.A. has been filed on 21.9.93 challenging the recovery. I have also noted that a second order of recovery has been passed on 15.9.93 seeking a total sum of Rs.65,435/- for the period between 11.9.88 to August, 1993. The reliefs sought by the applicant in the present O.A. are to set aside these order of recovery dated 16.3.93 and 15.9.93 and direct the respondents to allot forthwith Type-I quarter in terms of the judgement of this Tribunal dated 13.12.91.

On 13.1.94, after hearing the learned counsel for the parties, this Tribunal passed an interim order staying recovery of the market rent pending outcome of this O.A.

It is clear that the applicant had applied for compassionate appointment within the prescribed period after the death of her husband and this Tribunal had already held in their judgement

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dated 13.12.91 that she was wrongly denied such appointment. It is also to be noted that on 4.4.90, this Tribunal had clearly observed as follows:-

"Since the retention of the quarter is linked with the employment on compassionate ground we direct the respondents to restrain from evicting the widow from Quarter No.661, Type-II, Sector-2, Sadiq Nagar, New Delhi till the next date."

The interim order has been extended from time to time.

It is clear that there has been a wrong denial of compassionate appointment and also non-implementation of the order of this Tribunal to allot alternative Type-I accommodation to the applicant. This Tribunal had considered the critical financial condition of the family in their judgement dated 13.12.91 and clearly the intention was that after giving her compassionate appointment, which was wrongfully denied earlier, she should be allotted a quarter of the type to which she was entitled and till then she should not be asked to vacate the present premises.

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Considering these circumstances, the impugned orders dt. 16.3.93 and 15.9.93 are quashed. I hold that the applicant is liable to pay only the normal licence fee of Type-II quarter till such date she is allotted a Type-I quarter.

With these observations, the O.A. is disposed of finally.

No costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)

Member(A)

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