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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.2232/93

New Delhi, this the 12th day of January, 1994.

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

1. Smt. Bhagirathi Devi,
w/o late Shri Ram Chand,
r/o: 12/90, Lady Harding Compound Qtrs.,
P.K. Road, New Delhi.
2. Shri Mukesh ,
s/o: late Shri Ram Chand,
r/o: 12/90, Lady Harding Compound Qtrs.,
P.K.Road, New Delhi.Applicants
(By advocate: Shri D.R.Gupta)

VERSUS

1. Union of India,
through the Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.
2. The Medical Superintendent,
Lady Harding Medical College & Smt. Sucheta
Kriplani Hospital/K.S.C. Hospital,
New Delhi.
3. The Medical Superintendent,
K.C.Pant Hospital,
Delhi Administration,
Delhi.Respondents

(By advocate: Ms. Pratima Mittal, proxy
counsel for Shri K.C.Mittal)

ORDER (ORAL)

The cause of filing this application has arisen on account of death of the husband of applicant no.1 and father of applicant no.2, Shri Ram Chand who was a class IV employee in the Lady Harding Hospital (Dr. (Smt.) Sucheta Kriplani Hospital). The said employee had died in harness on 25-9-92. The deceased was survived by the widow, a working woman already employed in K.C.Pant Hospital -respondent no.3, besides 3 sons -Ramesh, Rakesh and applicant no.2 Mukesh, aged 20 years. There is also a married daughter, Kusum, besides one deceased's daughter's son.

The applicant has prayed for grant of a number of reliefs, viz.:-

" 8.1 to allow the application with costs to the respondents.

8.2 To quash the order rejecting the request of the applicant No.1 for the appointment of her son on compassionate grounds by Order No. KSCH/343 dated 22.1.1993 made by the Addl. Medical Supdt., K.S.C. Hospital, New Delhi after declaring it illegal and not legally sustainable as being violative of the scheme of compassionate appointment formulated by the Deptt. of P & Trg., and also being violative of Art. 14 and 16(1) of the Constitution of India.

8.3 To direct the respondents to appoint one of the son of the applicant No.1 Shri Mukesh on compassionate grounds against suitable posts in Gp 'D' Category.

8.4 To quash the order of the cancellation and eviction as being illegal being violative of Art.14 of the Constitution and against allotment allotment rules of Govt. accommodation and S.R.317.

8.5 To direct the respondent to regularise the Qtr.No.12/90, Lady Harding Compund Qtrs., P.K. Road, New Delhi or make ad hoc allotment in favour of applicant No.1 who is employed as a Sweeper in K.C.Pant Hospital or in the name of Applicant No.2 in the event of his being appointed on compassionate grounds.

8.5 To direct the respondent to release immediately terminal benefits due to the deceased Govt. servants.

8.6 To grant any other relief or reliefs as this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case and to meet the ends of justice."

2. The request of the widow was rejected by the order dated 22-12-93. She has also been served with an order of eviction by the Estate Officer, the Lady Harding Med. College and Smt. S.K. Hospital by the order dated 18-5-93. This order of eviction relates to Q.No.19, Block 10, Newly Constructed Building, P.K. Road, New Delhi, which was allotted to the deceased employee late Shri Ram Chand.

3. A notice was issued to the respondents who opposed the grant of relief to the applicant taking the preliminary objection that the application is not maintainable in view of the contradictory reliefs claimed in the application. On merits also, it is stated that family is not indigent and the son Mukesh a daily rated casual labour (d.r.c.l.) employees since 3 years is in the Hospital. The family is not of the category to be called an indigent family to give appointment to Mukesh on compassionate grounds. Since the son Mukesh is not a regular employee, no allotment/regularisation can be made in his favour. Regarding the case of applicant no.1, i.e., the widow, she does not belong to the pool of the hospital where the deceased was employed.

4. I have heard the learned counsel for the parties and perused the records. It is a fact that the applicant in the application has claimed regarding regularisation of the services of her son Mukesh, applicant no.2; regularisation of the quarter in favour of widow - applicant no.1; compassionate allotment in favour of applicant no.2 and also compassionate appointment in his favour. However, since the application has been considered after hearing the arguments on the rival issues raised in the case, it is equitable and just that the widow should be allowed to retain the premises till an alternative accommodation is available from the pool which can be allotted. This is because of the fact that she has already put in more than 20 years of service and it shall be inequitable if she is thrown

out of the accommodation and placed on the streets. She has undergone sufferrance of foregoing the house rent allowance normally allowable in the event of a Govt. servant not being allotted the Govt. premises. In this hour of necessity and need, if somebody has to suffer on account of her retention of the premises, then that will not be as harsh as throwing the allottee^{her} from the present premises. The learned counsel for the respondents also could not justify either from the record or from any rule that a person who had already been sharing accommodation with the deceased employee cannot be considered under the relevant rules for regularisation of the quarter. The only hurdle that comes in the way is division of Govt. accommodation in different pools which has been categorised by Directorate of Estates in order to facilitate the allotment of accommodation to the employees working in different departments. In this case, it will be an exception only for a shorter time when eligible pool accommodation is available for her.

By having put in 20 years or so of service, she would also be in the range of consideration of allotment on priority basis.

5. The issue is, therefore, disposed of in the manner that the applicant shall continue to retain the accommodation allotted to her deceased husband mentioned above till such time an alternative eligible pool accommodation is available and allotted to her on priority basis. She will, however, continue to pay the normal rate of rent as was being paid by her husband in the life time.

6. Regarding the case of compassionate appointment, the applicant no.2 Mukesh is already a d.r.c.l. employed in the same hospital and he is continuing there since last 3 years. The respondents, therefore, have rightly considered the case. That rejection order does not call for interference.

7. In view of the above facts and circumstances, the application is disposed of in the manner that the applicant no.1 shall not be evicted from the accommodation no.12/90, Lady Harding Compound Quarters, P.K. Road, New Delhi, till such time and one month thereafter, till she is allotted a reasonable type of pool accommodation by respondent no.3, Medical Supdt., K.C. Pant Hospital. However, she will continue to pay the usual rent as was being paid by the deceased employee.

8. The request for compassionate appointment of Mukesh and the order rejecting the same does not call for any intereference by the Tribunal and that prayer is disallowed. Parties to bear their own costs.

J. P. SHARMA

(J.P.SHARMA)
MEMBER(J)

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