

17

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1021/93.

New Delhi, this the 10th day of June, 1994.

SHRI J.P. SHARMA, MEMBER(J).

Smt. Manju Gupta,
wife of Shri Sanjeev K. Gupta,
resident of Qr. No.DG-1057, Sarojini Nagar,
New Delhi.Applicant

By advocate : Shri D.R.Gupta.

VERSUS -

1. Union of India, through Secretary,
Dept. of Telecommunication, New Delhi.
2. Dy. Director General (SR),
Department of Telecom, Sanchar Bhavan,
New Delhi-1.
3. The Director,
Directorate of Estates, Nirman Bhawan,
New Delhi-1.Respondents

By advocate: Shri P.H.Ramchandani.

ORDER

Shri M.R.Gupta was allotted government accommodation bearing no.DG-1057, Sarojini Nagar, New Delhi being general pool accommodation and he retired from service from Ministry of Health & Family Welfare on 19.2.1992. The husband of the applicant Shri Sanjeev is son of Shri M.R. Gupta and is employed in a private firm. The applicant, therefore, is the daughter-in-law being employed as Telephone Operator in Trunk Exchange, Kidwai ^{Bhawan} ~~Nagar~~, New Delhi w.e.f.24.4.1987 has applied for regularisation of this quarter in her name. The respondents have rejected the request of the applicant by the letter dated 6.7.1992/24/29.3.1993 as the case of the applicant is not covered under rules. Only those dependents/relations are eligible for out of turn allotment for regularisation of the quarter as laid down in the instructions contained in DG, P&T,

New Delhi letter dated 25.6.1981, i.e., when a government servant is an allottee of P&T pool accommodation retire from service, his/her son and married daughter or wife or husband as the case may be, may be allotted accommodation on ad hoc basis provided the said relation is a government servant eligible for allotment and subject to fulfilment of all other conditions for ad hoc allotment, are considered in this case. Aggrieved by the same, the applicant filed this application in May, 1993. By the order dated 3.6.1993, an interim direction was issued not to evict the applicant from the quarter in question and that interim direction continues.

2. The applicant has prayed for the grant of the reliefs that the impugned order dated 24.3.93 be quashed and the respondents be directed to make ad hoc allotment of the Government accommodation to the applicant in lieu of the quarter allotted to her father-in-law and to retain the present accommodation till alternative accommodation is allotted.

3. The respondents contested the application and the opposed the grant of the relief. It is stated that the applicant is employed in M.T.N.L. and as such the Tribunal has no jurisdiction. The husband of the applicant is already in service in a private firm. It is stated that the name of the applicant has been added in ration card on 19.7.91 whereas she got married with Sanjeev Gupta, son of Shri M.R.Gupta, in November, 1988. It shows that the applicant was not residing till all the period from the marriage November, 1988 and as such the legal ground of having continuously resided for 3 years preceding the date of retirement, i.e., 29.2.92, is not fulfilled. Further, there is no provision in the rules for ad hoc allotment to daughter-in-law. The cases cited by the applicant of Km. Usha, Telephone

Operator is quite old case and the details have not been furnished by the applicant. The applicant has not been subjected to any discrimination. No arbitrary decision has been taken by the department. Simply because she is sharing accommodation with her father-in-law does not make her eligible for ad hoc allotment on retirement of father-in-law. The applicant had already drawn House Rent Allowance (HRA) after his service but she stopped the same w.e.f. 1.4.89 and deposited her HRA for February and March 1989 to fulfil the condition of non-drawal of HRA for 3 years.

4. The applicant has also filed the rejoinder to the reply filed by the respondents. Regarding jurisdiction, it is stated that the impugned order has been issued by the Deputy Director General (HN) in the Department of Telecommunication, Sanchar Bhawan, New Delhi. Further, the points raised in the original application have been reitrated. It is also contended that the benefit has been extended to the married daughters and as such daughters-in-law are also entitled to this concession and the matter is already pending adjudication before the Hon'ble Supreme Court.

5. The applicant has also moved MA-1252/94 to place certain more documents on record. It is with regard to regularisation of the quarter in favour of the daughter-in-law of Shri Sham Dass. A copy of the O.M. dated 17.12.91 has also been filed where concession of ad hoc allotment of quarters has been extended to married daughters. This OM has extended the scope of the concession to the married daughters of a retiree official in case he does not have any son or in case where married daughter is the only person who is prepared to maintain the parents and

the sons are not in a position to do so. For example, the son is minor. This is subject to the condition that the ward should be continuously residing with the retiree government servant and not drawing HRA for 3 years immediately preceding the date of his/her retirement.

6. I have heard the learned counsel for the parties.

The documents filed by MA-1252/94 have been taken on record.

7. The contention of the learned counsel for the applicant is that since the daughter-in-law was sharing accommodation with the retiree father-in-law, she is entitled to ad hoc allotment out of P&T pool accommodation being an employee of P&T and has also been forgoing her HRA. In this connection, the respondents have clearly stated that the applicant had not been sharing accommodation immediately 3 years prior to the retirement of the father-in-law. The respondents have taken the stand that irrespective of the fact whether the applicant is eligible for ad hoc allotment or not, the father-in-law retired from government service on 29.2.1992. The name of the applicant in the ration card has only been entered on 19.7.1991 and that she got married with Shri Sanjeev Gupta, son of the retiree, only in November 1988. As such, she has not shared the accommodation with the retiree for 3 years. However, the applicant did not draw HRA w.e.f. 1.4.89 while she has joined the Telephone Department as Telephone Operator w.e.f. 24.4.87, merely because she has remitted certain amount of HRA she has drawn prior to 1.4.89 in order to cover the period of 3 years, would not make her come within the purview of the O.M. relied by the learned counsel for the applicant of 17.12.1991 issued by Ministry of Urban Development, Directorate of Estates. That OM specifically lays

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down that the ward should be continuously residing with the government servant and not drawing HRA for at least 3 years immediately preceding the date of the retirement of the government servant. The applicant, therefore, irrespective of the merit whether she is eligible or not, she is not covered by the aforesaid OM of 17.12.1991.

8. Regarding eligibility of the applicant, she is not a person on whom the retiree is dependent. It is clear from the pleadings of the parties that the husband of the applicant Shri Sanjeev Gupta is employed with the private firm. It is not a case where the retiree will be dependent on the daughter-in-law. The daughter-in-law is not in the purview of the family of the retiree so long Shri Sanjeev Gupta is there to support the father in any eventuality. The parties are governed by Hindu Law and the doctrine of pious obligation only makes his father dependent on the son. Otherwise also, the retiree can claim maintaince from the son only under relevant common law applicable to the parties and not from the daughter-in-law. The analogy drawn by the learned counsel for the applicant that the daughter is held to be eligible for out of turn allotment, so the daughter-in-law be also entitled in the same manner. This argument has no force. The married daughter is only entitled for out of turn allotment if there is no son to support the retiree father. Thus, the applicant daughter-in-law is not entitled as per the O.M. of 17.12.91 as well as under the common law.

9. The learned counsel, however, has referred to certain cases of allotment by the respondents to the daughter-in-law of Shri Trilok Chand Sharma and allotment in favour of one Mrs.Usha

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and also allotment in favour of Mr. Hemant Kumar. However, if the respondents have acted in relaxation of rules, the Tribunal cannot exercise the administrative prerogative. The respondents in the reply stated that in the case of Km. Usha, the allotment was done overriding priority by the then Minister of Communication in February, 1988. The other two cases cited by the applicant are quite old and in the absence of better particulars, the same could not be traced out. In fact, if any relaxation has been done of the aforesaid OM in certain cases by the administration, that will not amount to discrimination as the case of the applicant is entirely different. The applicant's spouse Sanjeev Gupta is already well placed and is serving in a private firm and obviously the emoluments have not been disclosed which goes to show that he is well-off. The out of turn allotment is ordinarily to rehabilitate the retiree government servant so that he may not be put to unnecessary inconvenience of finding a suitable residence. When the son is well-off, then craving for allotment in favour of daughter-in-law is only to circumvent the guidelines of allotment and that shall not be equitable. It is commonly known that a large number of serving government employees are waiting for their turn of allotment and after waiting for years, if a pool accommodation is available, then they claim it for allotment as part of their service conditions. It shall be more discriminatory if such employees are ignored and out of turn allotment is made in favour of a person who is not covered by the guidelines of allotment/regularisation of the quarter.

10. The learned counsel for the applicant also referred to certain cases pending before the Hon'ble Supreme Court and the stay has been granted in that case. What are the facts

23

of that case and what are the circumstances cannot be taken for granted to treat the applicant at par with the petitioner of that case. The powers conferred under SR-317-B-25 are statutory powers on the administration and the instructions are issued in accordance with the aforesaid S.R. If the instructions are not followed in letter and spirit, then the whole procedure of allotment shall stand disturbed and a precedence cannot be created in a case where the need of the applicant is not genuine and there are earning members in the family who can very well arrange the residence for the retiree. The applicant shall be entitled to her government accommodation in her own turn and till then she has to wait. She cannot have any grudge on that account as both the spouses are earning and in the garb of retiree father-in-law, she cannot be preferred for allotment on out of turn basis.

11. In view of the above, the application is totally devoid of merit and is dismissed. The stay granted by the Tribunal by the Order dated 3.6.93 is vacated. No costs.

Sharma.

(J.P.SHARMA)

MEMBER(J)

'KALRA'