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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1056/93

Date: 13.7.1993
13.7.93

Shri D.N. Joshi & Anr. Applicants

Versus

Union of India & Ors. Respondents

For the Applicants Shri Shiv Kumar, Advocate

For the Respondents Ms. Pratibha Mittal, Proxy
for Shri K.C. Mittal, Counsel

CORAM: Hon'ble Mr. J.P. Sharma, Member (Judl.)

1. To be referred to the Reporters or not?

Single Bench Judgement (Oral)

(By Hon'ble Mr. J.P. Sharma, Member (J))

Applicant No. 1 retired xx as Laboratory Attendant, Safdarjang Hospital, New Delhi, and Applicant No. 2 is his son's wife. (xxxxxxxxxxxxxx) She is posted as Staff Nurse in the same Hospital. Applicant No. 1, while in service, before his retirement on 31st March, 1991, was allotted Quarter No. D-941, Laxmibai Nagar, New Delhi. After his retirement, he did not vacate the said quarter and was granted permission to retain that quarter on the ground of illness upto 1st February, 1992. The applicant No. 1 thereafter, made representations ^{for further retention of quarter} one after another, thereby, he was allowed to retain the quarter upto 31st May, 1992. The applicant had also made a representation that the Rules under

SR 317-B-25 be relaxed to give compassionate allotment to Applicant No.2, his daughter-in-law. The applicant has not been granted any subsequent permission and it appears that proceedings under P.P.E. Act/ have been drawn against him. An order has finally been passed on 13th May, 1993 for eviction and damages.

3. - In this application under Section 19 of the A.T. Act, 1985, the applicants have prayed for direction to the respondents not to dispossess them from quarter No.D-941, Laxmibai Nagar and further a direction to the respondents to take a decision on the representation of applicant No.1, seeking relaxation/under SR- 317-B-25. of rules He has also prayed for quashing of the orders dated 5th August, 1992, 5th September, 1992, 21st October, 1992, and notice dated 23rd June, 1992. It is further prayed that the quarter be allotted in the name of applicant No.2. It is further prayed that only nominal licence fee in respect of quarter No.D-941 be charged from the applicants.

4. The respondents contested this application and in the reply opposed the grant of relief claimed in the application. The applicants have no case for relaxation of Government orders and their request made in their representation has already been rejected by the order dated 21st October, 1992 (Annexure A-12). The applicants

have also filed rejoinder to the reply filed by the respondents and also annexed a copy of the order from the Estates Officer, Safdarjang Hospital, Delhi, pertaining to applicant No.1.

5. I have heard the learned counsel for the parties at length and perused the records. The undisputed facts are that the applicant had retired on 31st March, 1991, while serving as Lab. Attendant in the Hospital of the respondents. Applicant No.2 is posted as a Staff Nurse w.e.f. October, 1990 and is married to the son of the applicant No.1. The retention of Government accommodation is permissible to a retiree only upto a period of four months after retirement. On certain compassionate grounds, this period can be extended and in this case, it has been extended upto 31st May, 1992. Thus, applicant No.1 has no right to retain the quarter beyond this period. In the period of extension granted to him by the order dated 15th February, 1992, it was specifically mentioned that he should hand over the vacant possession of the premises on 1.6.1992 to C.P.W.O. Enquiry, Laxmibai Nagar, failing which eviction proceedings will be initiated against him.

6. The second issue involved in this case is that whether applicant No.2 can be given an out of turn allotment on the fact that she is a daughter-in-law of the retiree. In the application, or during the course of the

arguments, no such rule, administrative instruction or order, even SR-317-B has been cited to show that the daughter-in-law is entitled to 'out of turn' allotment. Here, it may be emphasised that the son of the applicant is working in a private company and while present along with his counsel in the Court today, admitted to be receiving Rs. 2100/- per month as his salary. He is not in Government service. A regularisation/allotment to a ward of a retiree is only on compassionate grounds. The case of the applicant No. 2 is not covered, being the daughter-in-law and the father-in-law, cannot be said to be dependent on her. The respondents in their reply have rightly pointed out that when a question of standing surety arose, applicant No. 2 refused to stand surety for applicant No. 1. In view of this fact, I find that the case of the applicant No. 2 is ^{not} covered for 'out of turn' allotment on the basis that her father-in-law is a retiree.

7. The learned counsel for the applicant also placed emphasis on the fact that one, Smt. Jyoti Lal, a Staff Nurse, who was also the daughter-in-law of a retiree, had been given 'out of turn' allotment by regularisation of a quarter of her own father-in-law. The respondents in their reply stated that the case of the said lady is materially

different and it was at the ministerial level that she was ~~unable~~ to get an allotment 'out of turn'. That case, therefore, cannot be taken as a good example. What was the situation and circumstances which prevailed with the Minister, cannot be projected in the case of the applicant. The other instance given in the application regarding Quarter No. 935, cannot be considered because the name of the person to whom the allotment had been made, has been not disclosed in the application. The learned counsel for the applicant wants to shift his own burden on the respondents to give better particulars regarding that. That cannot be acceded to. Thus, on this ground also, applicant No. 2 cannot be given 'out of turn' allotment.

8. The learned counsel for the applicant further argued that the representation of applicant No. 1 which he has subsequently preferred, should have been forwarded for expeditious disposal. But once a representation has been disposed of, as referred to above by the order dated 21st October, 1992, no such direction can be issued. Decision on a representation gives a cause of action and the applicant has filed the present application in that regard also. He has also prayed for quashing of this order dated 21st October, 1992. This argument, therefore, also does not help the case of the applicants.

9. The learned counsel for the respondents referred to the fact that in the proceedings under P.P.E. Act, 1971,

(12)

applicant No.1 had adopted dilatory tactics and now the final order has been passed for that order has been filed along with rejoinder, but has not been challenged.

10. The learned counsel for the applicant also argued that applicant No.2 has not been claiming any H.R.A. and so in that event, while she was sharing the accommodation with her father-in-law, the Quarter in question should have been regularised in her favour.

In fact, when an employee is already living ^{with} a Government servant and not paying anything towards rent, then the former is not entitled to payment of H.R.A. This does not make out a ground for allotment of the quarter.

11. I have also considered the case from the angle of magnanimity and sympathy. There is a long queue waiting for allotment in turn for Type II quarters.

The income earned by the family, the son, the daughter-in-law ^{and retiree} of the retiree ^{is not less than Rs.5,000/- per} month. From any angle of compassion, the case of the applicant is not covered on mercy.

12. In view of the above discussion, I find no merit in this case. The application is, therefore, dismissed as devoid of merit. The interim order granted on 14.5.93 is hereby vacated. There will be no order as to costs.

J.P. Sharma
(J.P. Sharma)
Member (J)
13/7/93