

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1063/93

NEW DELHI, this 14th day of February, 1994

Shri C.J. Roy, Hon'ble Member(J)

Shri Bhuvnesh Khanna
s/o late Shri I.C. Khanna
1363, Sector IV, R.K. Puram
New Delhi-110022

.. Applicant

By Shri B. Krishan, Advocate

Versus

1. Director of Estates
C, Wing, 4th Floor
Nirman Bhavan, New Delhi

2. Shri R.S. Bhagat
Estate Officer
Dte. of Estates
Nirman Bhavan, New Delhi

.. Respondents

By Shri P.P. Khurana, Advocate

ORDER

In this application filed under Section 19 of the CAT Act, the applicant is aggrieved by the eviction order dated 30.4.93 (Annexure A-1) asking him to vacate the Government quarter No. 1363, Sector IV, R.K. Puram, and has prayed for the quashing of the impugned order.

The facts of the case in brief are that the said quarter was originally allotted to his father, who died in the year 1983. After the death of his father, the applicant's sister Km. Rashmi Khanna was given compassionate appointment as LDC and the quarter is stated to have been regularised in her name. Km. Rashmi Khanna also died in harness on 15.8.1991, upon which the applicant has applied for compassionate ground appointment on 18.11.91, which is stated to be pending consideration. The applicant claims that he is hopeful of getting compassionate appointment as he fulfills the eligibility condition.

..P/2

3. The applicant further states that he fell prey to a bomb blast in April, 1991 with the result he was hospitalised for a long time and discharged on 17.2.1993. He says he was shocked to receive the eviction order when he is hopeful of getting compassionate ground appointment and that the quarter would be regularised in his name after that. Hence this application.

4. The respondents have filed their counter affidavit stating that only those dependents who are in service or get appointment within a year of death of the allottee are eligible for regularisation of Government accommodation but since in this case the applicant, brother of late Ms. Rashmi Khanna is not in service even after the expiry of one year, he is not eligible to get the quarter regularised in his name. They state that no application in this connection has been received from the applicant. They aver that the applicant was given an opportunity of being heard by the Estate Officer on 15.3.93 but no dependent/guardian was present and an ex-parte order was passed by the Estate Officer. They claim that the applicant is unauthorisedly occupying the accommodation with effect from 15.8.92, when the allotment was cancelled.

5. I have heard the learned counsel for the parties and perused the records.

6. The case of the applicant is that his appeal for compassionate ground appointment on the death of his sister is under consideration with the respondents. There is also a copy of OM dated 10.1.92 from the Registrar General of India addressed to the Ministry of Home Affairs for giving a suitable compassionate appointment to the applicant. The respondents have also not denied this contention of the applicant in their reply. The applicant claims that he has been living with his late father and also his later sister and he was wholly dependent upon them.

He says that his ailing mother is staying with him.

7. The learned counsel for the applicant brought to my notice the decision of this Tribunal in a case of similar nature bearing OA No.2218/90 decided on 11.10.91 - Smt. Narain Devi & Anr. Vs. UOI - in which a direction was given to the respondents to appoint the applicant in a suitable post and not to dispossess him from the Government quarter till he is appointed. For this, reliance was made on the case of Smt. Phoolwati Vs. UOI - AIR(1991)SC-469 - and Smt. Sushma Gosain Vs. UOI - AIR(1987)SC-1976 - wherein the Hon'ble Supreme Court has held as under:

"It can be stated unequivocally that in all claims for for appointment on compassionate ground, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread earner of the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant".

8. In the instant case, the quarter in question was originally allotted to the applicant's father and when he died in harness, compassionate appointment was given to the applicant's sister and the quarter was regularised in her name. But when the applicant's sister also died in harness, the applicant has made an appeal for compassionate appointment, which is stated to be under consideration of the respondents and this fact is not disputed. Also, the request of the applicant, who was living with his father and also his sister in the same quarter, for compassionate appointment and consequent regularisation of the quarter in his name after his joining duty on appointment thereto, still subsists.

9. Following the guidelines cited supra and in view of the fact that the applicant's request for compassionate

4

15

is pending consideration and the same still subsists, I am satisfied that the applicant has made out a case. The application is therefore allowed with the following direction.

The impugned eviction order dated 30.4.1993 is quashed and set aside. The respondents are directed not to dispossess the applicant from the Government quarter untill his appeal for compassionate appointment is disposed of by them, ^{and} also, only normal licence fee may be recovered from the applicant from the date of death of his sister.

With this direction, the OA disposed of. No costs.

msb
(E.J. Roy)
Member (J) 16/2/94

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