

In the Central Administrative Tribunal
Calcutta Bench

OA No.890 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Manishankar Majee

.... Applicant

Vs.

- 1) Union of India, service through the Secretary, Ministry of Defence, Govt. Of India, New Delhi.
- 2) Chairman & Director General, Ordnance Factory Board, 10/A, Auckland Road, Calcutta - 1.
- 3) Estate Manager, Office of the Estate Manager, 5, Esplanade East, Cal-69.

.... Respondents

For the Applicant : Mr. Samir Ghosh, Advocate

For the Respondents: Ms. K. Banerjee, Advocate

Heard on : 7.8.98

Date of Judgement : 14-9-98

ORDER

Applicant Shri Manishankar Majee, working as Lower Division Clerk in the Ordnance Factory Board, Calcutta filed this application being aggrieved by an order for non-regularisation of the quarters in favour of the applicant as sought for under father & son rules of allotment vide letter dated 11-6-96 issued by the Estate Manager, Calcutta on the grounds stating, inter-alia, that the applicant was appointed as LD Clerk on compassionate ground w.e.f. 8.12.95 vide letter dated 11-12-1995 (Annexure 'D' to the application), though the applicant applied for compassionate appointment on 21.12.93. It is alleged that there had been inordinate delay in giving the said compassionate appointment by the respondents; though the applicant was residing in the govt. quarters allotted to his father. The applicant

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applied for regularisation of the quarters under the father and son rules on out-of-turn basis; but respondents refused the same erroneously vide letter dated 11.6.96. Thereby, he has to approach this Tribunal for having direction upon the respondents to cancel the impugned order dated 11.6.96 and to regularise the quarters in favour of the applicant under the father and son rules.

2. The case of the applicant is resisted by the respondents by filing a written reply in this case. It is stated that father of the applicant has been declared permanently incapacitated from the govt. service by the competent medical authority as informed on 14.12.93 by the Deputy Director of Railway and allotment of the quarters was cancelled w.e.f. 25.3.94 according to the existing allotment rules vide No.1/4887/550-M/80-Allet dated 8.3.94 and Shri Manishankar Majee applied for regularisation of quarters after having been appointed as LD Clerk on 8.12.95 and his case was considered by the authority and found that applicant was ineligible to get allotment of the quarters as applied for since he was not appointed within a period of calender month from the date of retirement of his father. In this case Shri Majee got the appointment on compassionate ground after expiry of a long period of two years & one month from the date of retirement of his father on 26.11.93 and for that reason regularisation of quarters could not be considered. It is also stated that thereafter he filed this OA No.870 of 1996 before the Hon'ble Tribunal of Calcutta Bench. Thereby, applicant is not entitled to get allotment of the quarters under father and son rules on out-of-turn basis. Thereby, application is liable to be dismissed.

3. Heard Lt. Advocate for both the parties. The ground taken by the respondents in this case is that since applicant was appointed after two years from the date of retirement of his father, he is not entitled to get benefit of retention of the quarters under father and son rules. Lt. Advocate Mr. Ghosh for the applicant submits that

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regularisation of quarters in favour of the deceased employee's son appointed on compassionate ground has been well settled by the Division Bench of the Hon'ble Tribunal of Calcutta by a judgement reported in 1996(32) Administrative Tribunals Cases 334 in the case of Indrasan Devi & Anr. ~~vs.~~ Union of India & Ors. where ^{similar} subject matter ^{is in} ~~of the~~ ~~dispute in this~~ case was considered by the Hon'ble Division Bench in para 5 of the judgement and question of controversy was solved by the Hon'ble Division Bench where the Hon'ble Division Bench held that "we do not find any reason whatever to deny retention of the railway quarters so long occupied by them on the ground alone that the compassionate appointment was not granted to applicant No.2 since the circular on which respondent railway have based their decision appears to have been superseded by the Railway Board's circular which we have discussed hereinafter. Moreover, there is a specific averment made by both the applicants that they were residing with the erstwhile railway employee and applicant No.2 also made a prayer not to deduct house rent from his pay". In view of the aforesaid judgement, I find that the reason for denying the regularisation of quarters in favour of the applicant Shri Majee was that applicant was appointed after two years from the date of retirement of his father on compassionate ground and the allotment of the quarters in favour of his father was cancelled. The Hon'ble Division Bench, in granting relief to the applicant in Indrasan Devi's case relied on a decision reported in AIR 1991 SC 469 - Smt. Phoolwati Vs. Union of India where the Hon'ble Appex Court held, "Accordingly, we direct the Union of India to take immediate steps for employing the second son of the appellant in a suitable post commensurate with his educational qualification within a period of 1 month from the date of this order. The ~~appellant~~ shall be permitted to stay in the said quarters where she is at present residing with the members of her family".

4. In view of the aforesaid circumstances, I have considered the facts and circumstances of this case and having regard to the decision



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given by the Division Bench of the Hon'ble Tribunal of Calcutta Bench on relying upon the judgement of the Hon'ble Supreme Court) I have no option but to allow the applicant's prayer holding ^{That} the reasons shown by the respondents are not sustainable for refusing the regularisation of quarters as sought for by the applicant. Accordingly, in view of the above discussion, application is allowed and respondents are directed to regularise the quarters as per status of the applicant by allotting the quarters in favour of him under the father and son rules. Respondents also are directed not to disturb the possession of the applicant until a fresh allotment is done in favour of the applicant as per rules. Accordingly, the order dated 11.6.96 (Annexure 'D') is set aside. Allotment of quarters under father and son rules shall be done by the respondents within a period of three months from the date of communication of this order. No order is made as to cost.

10/6/96
(D. Purkayastha)
Member(J)