

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 331 of 2001

Dated this Tuesday the 11th day of September, 2001.

Smt. Vimal Shantaram Rama Jadhav, Applicant.

Shri P. A. Prabhakaran, Advocate for the
Applicant.

VERSUS

Union of India & Others, Respondents.

Shri S. S. Karkera, Advocate for
Respondents 1 to 3.

Shri V. S. Masurkar, Advocate for
Respondent No. 4.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library.

Bns
(B. N. BAHADUR)
MEMBER (A).

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Dated this Tuesday the 11th day of Sept, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Smt. Vimal Shantaram Rama Jadhav,
Resident of
4378, Building No. 121,
Antop Hill, Sector 7,
Mumbai - 400 037.

... Applicant.

(By Advocate Shri P. A. Prabhakaran)

VERSUS

1. Union of India through
The Secretary,
Ministry of Information
and Broadcasting,
Shastri Bhavan,
New Delhi - 110 001.
2. The Director General,
AIR and DD Unit,
Prasar Bharati Broadcasting
Corporation Of India,
Akash Vani Bhavaan,
Sansad Marg,
New Delhi - 110 001.
3. The Station Director,
Prasar Bharat Broadcasting
Corporation Of India,
O/o. the Station Director,
Vividh Bharati Service,
All India Radio, L.T. Road,
Borivali, Mumbai - 400 091.
4. The Estate Manager,
Government of India,
Old C.G.O. Building Annex,
1st Floor, 101 M. K. Road,
Mumbai - 400 020.

... Respondents.

(By Advocate Shri S. S. Karkera for
Respondent Nos. 1 to 3 and Shri V.S.
Masurkar for Respondent No. 4).

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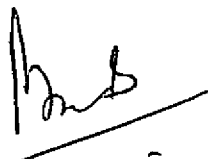
O R D E R

PER : Shri B. N. Bahadur, Member (A).

The Applicant in this case, comes up to the Tribunal seeking the relief, in substance, for a direction to Respondent Nos. 1 to 3 to intimate Respondent No. 4 i.e. the Estate Manager, Government of India, that retention of allotted quarter by the applicant may be allowed beyond 27.04.2001, till the disposal of the Applicant's petition. Also, to the effect that damage/market rent shall not be levied and that the licence fee shall be restricted to twice the normal licence fee.

2. The basic plea, therefore, is that in view of the fact that Applicant's case is being considered for compassionate appointment, she should be allowed to stay on in the Government accomodation, as requested. The facts of the case, as brought out by the Applicant are that she is the widow of Late Shri S.R. Jadhav, who died on 27.04.1999, untimely, in harness, while in service of Respondent No. 3. The applicant states that she has filed two other O.As., separately, one seeking for directions regarding provision of employment on compassionate grounds and other seeking a relief to the effect that 50% of the service rendered by her husband, as casual labour, be reckoned for purpose of his qualifying service. The Applicant contends that she has virtually no educational qualification, having left her education process in the primary school itself. Her request for

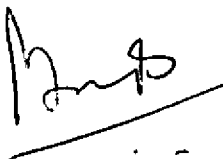
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employment on compassionate ground made as per Exhibit A-1 is still pending. She has received only very meagre amounts as retiral benefits/pension and that, since she does not have a job, she has the need of continuing in Government quarters. Her family consists of four children, all of age 16 and below, besides herself and they are in school.

3. It is contended by the Applicant that they do not have any accomodation at all and that she had been expecting that by the time permission for retention of quarters expires, she would be provided with some employment on compassionate grounds. Hence, she comes up to the Tribunal.

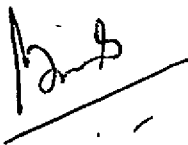
4. The Respondent at Sl.No. 4 in the case have filed a Written Statement of reply, to oppose admission and interim relief, which statement admittedly formed the final reply on the basis of arguments were made by their Learned Counsel, Shri V. S. Masurkar. It is stated in the Written Statement that the husband of the Applicant had expired on 27.04.1999. The allotment of the quarter bearing No. 121/4378, Type-I in S. M. Plot, Bombay 400 037 was cancelled w.e.f. 27.04.2000 after giving one year's time for making alternate arrangement. On application by the Applicant for further retention of the accomodation for one year, she was granted this permission for retention upto 27.04.2001. As per extant rules, the dependent of the deceased Government servant should have been able to secure



employment within two years from the date of death of the Government servant to become eligible for regularisation. Certain grounds are taken citing case law to make the point that no regularisation could be claimed after this time, as this is a concession being afforded.

5. I have seen all papers in the case and the case law cited and have also heard the arguments made on behalf of both sides by their Learned Counsel.

6. The Learned Counsel for the Applicant, first made the point that the relevant rules help the applicant's case. He argued that Appendix 2 of the Central Civil Services (Pension) Rules, were relevant in this connection. He reiterated the grounds taken at para 5 of the O.A. and depended on the ratio settled by the Hon'ble Supreme Court in the matter of Rasila Ram [JT 2000 (Vol.10) SC 503]. Further, he cited the case of Balbir Kaur decided by the Hon'ble Supreme Court and reported at 2000 SCC (L&S) 767. The point made, inter alia, was that denial of compassionate appointment in deserving cases was denial of social and economic justice in terms of the Constitutional provisions. Learned Counsel argued that the Respondents are not deciding the case of the Applicant, where she had asked for compassionate appointment some two years back and delay and lethargy on their part is causing her to suffer. A point was also made on behalf of the Applicant that there could be no question of a waiting

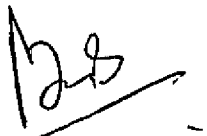


list for deserving persons in view of the judgement of the Principal Bench dated 02.06.1998 delivered in O.A. 962/97.

7. The Learned Counsel for the Respondent No. 4, Shri V.S. Masurkar, depended on para 6 and 7 of the reply in the Written Statement filed on behalf of Respondent No. 4. He stated that some two years time had already passed since after the Applicant's husband unfortunately died on 27.04.1999 and permission is now available for staying in the quarter upto 27.04.2001 i.e. for two years. Learned Counsel made the point that compassionate appointments can be made only upto a limit of 5% and that while sympathy for retention of Government quarters has to be shown, it cannot be extended beyond a limit. Learned Counsel sought the support of the decision of the Principal Bench of the Tribunal in the matter of Phool Singh V/s. Union of India reported in 1997 (Vol.1) ATJ 175.

8. The case was also argued on behalf of Respondents 1 to 3 by Learned Counsel, Shri S. S. Karkera, who provided the information that the Applicant was listed at Wait List No. 12 for compassionate appointment and that a wait list could be maintained now depending on the strength of the organisation, etc. and that there was no prescribed time limit during which compassionate appointment had to be provided. He stated that there was no vacancy in the Respondents' organisation at present and that the fact that request for compassionate appointment was

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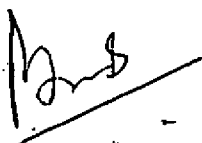
pending cannot be a ground for the Applicant to claim continuation of the retention of the Government Quarters.

9. On perusal of the records and the arguments advanced, I am not convinced that the Applicant could be provided the relief that she seeks on the ground of pendency of application. The case of Rasila Ram and Balbir Kaur cited, do not come to the aid of the Applicant in the circumstances of her case. It is indeed noted that the Applicant has filed two other O.As., one of which is in respect of the relief relating to compassionate appointment.

10. It is to be noted that, already, the Applicant has been granted permission for continuation in the quarters for two years after the unfortunate death of her husband. It is not as though no consideration has been shown to the adverse circumstances of the Applicant, which I have no doubt would be difficult. However, as rightly argued by the Learned Counsel, Shri V. S. Masurkar, we cannot go beyond a point. The decision in the matter of Phool Singh depended upon by the Respondents provides support to the contention of the Respondents. The Headnote of the decision reads as under :

"(A) Residential Accomodation - Appointment - Regularisation of accomodation in respect of appointments secured on compassionate grounds within a period of 12 months from the date of the death of Government employees has been provided as a special concession in the rules and it cannot confer a right for regularisation even in cases where such appointment has been secured after a gap of one year.

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(B) Supplementary Rules, Rule 317-B(25)-
Residential Accomodation - Appointment -
Applicant secured appointment on compassionate
ground after 2 years from the date of death of
the deceased Govt. servant - cannot claim
regularisation of residential accomodation."

In the circumstances, the relief sought cannot be provided to the Applicant by judicial determination. However, we note that the period for which the stay of the quarters was allowed to the Applicant ended on 27.04.2001. We also note that the Applicant had been provided with an order of status-quo in this O.A., by which she would be continuing in the quarters. Purely with a view to giving her some time which anyone would need to shift from an established house, we would consider it justifiable in this case to direct the Respondents to issue orders allowing the Applicant to retain the quarters for a further period upto 27.11.2001. The rent to be charged would be the same, as was charged for the period immediately preceeding 27.04.2001.

10. In the circumstances, this O.A. is disposed of with the following orders.

(a) The relief as sought for, cannot be allowed and are rejected. However, directions as in paragraph no. 9 shall be followed by the Respondents.

(b) No order as to costs.



(B.N. BAHADUR)
MEMBER (A).