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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 535/94

~~Transfer Application No~~

DATE OF DECISION: 12.9.94

Smt. S.K. Sawant Petitioner

Shri R.R. Dalvi Advocate for the Petitioner

Versus

Estate Manager, Govt. of India Respondent
Bombay and others.


Shri V.S. Masurkar. Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S. Hegde, Member (J)

The Hon'ble Shri

1. To be referred to the Reporter or not ? 7
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(B.S. Hegde)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 535/94

Smt. S.K. Sawant

... Applicant.

V/s.

Estate Manager
Govt. of India Estates,
Old CGO Building
Annexe, 3rd floor,
101 M.K. Road,
Bombay.

Director of Estates,
Govt. of India,
Ministry of Housing
New Delhi.

Secretary, to the
Govt. of India
Ministry of Urban Development
Mantralaya,
New Delhi.

... Respondents.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Appearance:

Shri R.R. Davi, counsel
for the applicant.

Shri V.S. Masurkar, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 12.9.94

{ Per Shri B.S. Hegde, Member (J) }

Heard counsel for the parties. The facts of the case is ~~that the husband~~ of the applicant was expired on 20.12.91. Thereafter her son Shri Sudhir Kashinath Sawant sought for compassionate appointment. Shri S.K. Sawant was given compassionate appointment on 17.5.94. The only prayer made by the applicant in this oOA is that the premises occupied by the applicant may be regularised in the name of her son who has been appointed on compassionate ground by virtue of the Tribunal's order dated 8.4.94 in OA 1186/93. The Tribunal while directing the

respondents to give compassionate appointment observed that the relief sought in regard to the request for transfer of the present quarter occupied by the applicant in the name of her son. This is an issue related to the appointment on compassionate ground and there is not admitted.

2. Shri Masurkar, the learned counsel for the respondents, submits that the applicant can seek for departmental accommodation in Mahim, instead of regularisation of the General Pool quarters which are not related to the department, in which he is working. In this connection he referred to the circular at page 15 of the O.A. which reads as follows:


"(a) In case the eligible dependant (near relation) is a Government servant and is entitled for General Pool accommodation and has been residing with the deceased officer concerned for at least six months prior to the allottee's death, ~~he~~ is eligible for ad hoc allotment of accommodation one type below his/her entitlement. Where, however, the eligible officer is entitled to Type B or any higher type of accommodation, he/she may be allotted accommodation in type I on ad hoc basis even if the deceased Government servant was occupying type A accommodation.

(b) The request for ad hoc allotment to an eligible dependant may also be considered in case the dependant gets an employment in an eligible office even after the death of the officer provided such an appointment is secured within a period of twelve months after the death of the officer and that accommodation in occupation of the officer has not been vacated. Eviction in such cases will not, however, be delayed on consideration that the dependant is likely to get an appointment.


3. In view of the above, learned counsel for the respondents further submits, that the applicant does not fulfil both the conditions therefore, the regularisation of the General Pool accommodation so far as the applicant is concerned hardly arises.

4. In the light of the above, it is open to the applicant to make representation to General Manager, India Government Mint. for seeking alternative accommodation in this behalf. It may be re-called that the City Civil Court on 2.12.93 directed the respondents only not to execute the order of Eviction for a period of 15 days, after the order is passed in the matter, which is pending before the Central Administrative Tribunal. The Tribunal on 8.4.94 observed that the relief sought in regard to regularisation of the quarter in the name of her son. This is not an issue related to the appointment on compassionate ground and therefore is not admitted. Subsequent to the order the applicant has filed this O.A. and got an interim relief vide order dated 29.4.94.

5. In view of the above circumstances, the interim relief granted earlier is hereby vacated from the date of receipt of this order.

 6. On perusal of the documents, we find, that the applicant's son was appointed on compassionate ground. His father was in occupation of type III quarters after putting number of years of service. The allotment of the very quarter in occupation of the deceased officer can be regularised in the name of dependent son/daughter provided he/she fulfils the conditions for ad hoc allotment.

7. In the result, I do not see any merit in the O.A. As stated earlier, if he intends to seek for an alternative accommodation, it is open to him to file necessary representation to the Competent Authority, otherwise he cannot continue in this premises any longer, pursuant to the respondents order dated 20.8.93, which has passed in accordance with the Rules. Accordingly the O.A. is dismissed. No order as to costs.


(B.S. Hegde)
Member (J)

NS

165/X/10

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

R.P. NO. 125/94

in

O.A. NO. 535/94

Smt. S.K. Sawant

...

Petitioner

v/s

The Estate Manager,
Govt. of India Estates,
Bombay & Others

...

Respondents

CORAM : Hon'ble Shri B.S. Hegde, Member (J)

TRIBUNAL'S ORDER (By circulation) DATED: 21. 12. 94

(per: Hon'ble Shri B.S. Hegde, M(J)).

1. The review application has been filed by the Applicant seeking review of the judgement dated 12th September 1994 in O.A. No. 535/94.



2. I have seen the Review Application and I am satisfied that the review application can be disposed of by circulation under rule 17 of the CAT (Procedure) Rules 1987 and I proceed to do so.

3. The Review applicant in his review application has pointed out certain alleged errors occurred in the judgement which may be perused and reviewed. Firstly, she states that instead of disposing of her Misc. Petition No. 892/94, this Tribunal has wrongly disposed of the O.A. itself. Secondly, this Tribunal had gone on wrong footing that the only prayer made by the applicant was for regularisation of the existing Government quarters in the name of the son of the

From pre-pages:

deceased Government servant which is incorrect. Thirdly, the contention that his department has enough accommodation at Mahim and hence the compassionate appointee should not ask for regularisation of present Government's quarters. He challenged by saying that the Respondent's quarters at Mahim are only for Subedars and officers and not for labourers to which category the Applicant's son belongs. Lastly, the alleged non-fulfilment of the condition regarding the maxim period of 12 months within which the existing accommodation can be regularised in the name of the deceased employee's son/daughter if he/she secured compassionate appointment within 12 months. In the instant case, the compassionate appointment could not be secured within the stipulated period on account of the delay on the part of the Department and on that ground denying the facility of accommodation and regularisation in the name of the son is not warranted etc.



4. It may be recalled that the Applicant in his O.A. has prayed for regularisation of the quarter in the name of her son who has been granted compassionate appointment. Though he has made a prayer that the damage rent/market rent is not to be recovered but nowhere it is stated that the Department in fact has recovered the market rent or damage rent as the case may be. Since there is no specific pleadings on the part of the Applicant that neither the damage rent/market rent has been deducted by the Respondents, it is not necessary for the Tribunal to go into that at this stage.

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5. The law is well settled, that the scope of the review application is very limited and the R.A. is maintainable only if there is an error apparent on the face of the record or some new evidence has come to notice which was not available even after exercise of due diligence or any other sufficient reason. Review Application cannot be utilised for rearguing the case traversing the same ground again.

6. A perusal of the Review Application makes it clear that none of the ingredients referred to above have been made out to warrant a review of the aforesaid judgement.

7. The contention of the Applicant that the quarter at Mahim is only for the Subedars and officers and not for labourers is not based on record and the Applicant has not furnished any documentary proof to this effect. In this connection, it is relevant to note that the written statement filed by the Respondents wherein it is clearly stated that the dependent son got the employment in India Government Mint and it is the duty of the India Government Mint to provide him with accommodation. So far as Estate Manager or Directorate of Estates is concerned, the aforesaid officer deals with general pool accommodation. The department, which is having own pool of accommodation, is not entitled to get general pool accommodation and India Government Mint is one of the few departments which are having



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their own pool of accommodation and therefore, the employees of India Government Mint are not entitled to get general pool accommodation; that being the position, it is not open to the Applicant to contend that the quarter which he is occupying should be regularised in his name.

8. In the circumstances, I am of the opinion, that neither an error on the face of the record has been pointed out nor any new facts have been brought to my notice calling the review of the judgement. Further, keeping in view of the provisions of the Order 47 Rule 4 read with section 115 of the CPC, the grounds raised in the review application are more germane for an appeal against the judgement referred to above and not review of the judgement. The review application is, therefore, dismissed.

Copy to:- 19274-9275
Mrs. S.K. Sawant,
C/O. Mr. R.R. Dalvi, Adv.
2. The Union of India & Ors.,
through Mr. V.S. Masurkar, Adv.

R.H. Mahantve 27.10.94
for
VINAY S. MASURKAR
Govt. Counsel

Certified True Copy

Date 27.10.94

Section Officer
Central Admn. Tribunal
Bombay Bench

SECTION OFFICER.

ssp.

24.11.94

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24/11/94

Recd

26/11/94