

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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Original Application No. 1394/94
Transfer Application No.

Date of Decision : 29/06/1995

R.V. Chavan & Anr.

Petitioner

Shri.S.Natarajan

Advocate for the
Petitioners

Versus

Union of India & Ors.

Respondents

Shri.V.S.Masurkar

Advocate for the
respondents

C O R A M :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

- (1) To be referred to the Reporter or not ? —
- (2) Whether it needs to be circulated to other Benches of the Tribunal? ~~~~~

(M.S.DESHPANDE)
V.C

J*

(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 1394/94

R.V. Chavan & Anr. .. Applicants

Vs.

Union of India & Ors. .. Respondents

CORAM: Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

Appearances

1. Shri.S.Natarajan,
Advocate
for the applicant.
2. Shri.V.S.Masurkar,
Advocate
for the respondents.

ORAL JUDGMENT

DATED : 29/06/1995

(Per. Justice M.S.Deshpande, Vice Chairman)

By this application, two reliefs have been sought, namely, firstly to quash the order directing eviction of the applicant and secondly, refusal on the part of the authorities to grant father-to-son allotment of the government quarter be declared illegal. Applicant No. 2 is the son of applicant No. 1 who retired on 31.3.1994.

2. Applicant No. 1 was working as a Mali with the respondents and he retired on March 31, 1994. His son who was employed on 23.11.87 has been residing with the first applicant and he made an application for allotment of the quarters to him on father-to-son basis. The respondents issued a notice to show-cause to the applicant on 22.10.94 granting him time upto 19.10.94 to show-cause. Applicant No. 1 could not have shown cause because the period within which the cause was to be shown has already expired before the issue of show-cause notice. The second applicant's letter for

allotting quarters to him on father-to-son basis also did not receive the attention of the respondents and an order of eviction eventually came to be passed against the applicant No. 1 on 15.12.1994.

3. The learned counsel for the respondents urged that the applicant No. 2 cannot approach this Tribunal because the Government of India's orders which were issued on 19.11.87 for allotment of government quarters to dependent/relative of government employees on retirement were in the nature of allotment on ad-hoc basis subject to fulfillment of certain conditions, namely non-receipt of H.R.A, residence for atleast 3 years with the retired government servant prior to his retirement and appointment in government service within a period of 3 years preceeding retirement of the government servant. It was also pointed-out that Applicant No. 1 had not paid arrears of rent, more so even normal rent from July 1987 to January 1995, that means a period he had been in occupation of the quarter and Applicant No. 2 had drawn H.R.A for the period 22.11.87 to 31.12.89 though he had later refunded the amount drawn by H.R.A.

4. The learned counsel for the applicant drawn ~~our~~ attention to the applicant's letter dated 21.12.1989 (Annexure 'A2') in which he had stated that he is staying with his father and that H.R.A payable to him should be deducted from January 1990 onwards. It was noteworthy that the respondents did not decide Applicant No. 2's application for allotment on ad-hoc basis also. The learned counsel for the respondents urged that since the question on ad-hoc allotment had been expressly stated as by way of concession in the

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relevant rules, the applicant No. 2 had no enforceable right to the concession and this request therefore should not be entertained.

5. I have already pointed-out that the applicant had not been given a proper notice before directing his eviction and the period provided for him to show-cause was nothing but a farce and no personal hearing has been granted to him. The order of eviction passed on 15.12.94 would therefore suffer on this count.

6. With regard to the inaction on applicant No. 2's application for ad-hoc allotment though it may be in the nature of a concession, it would be apparent that the authority who had to make appropriate orders under the Government of India Instructions dated 1.5.81 and 19.11.87, had a statutory obligation to consider whether ad-hoc allotment even by ^{way of} a concession can be granted. May be, if that request ^{were} properly considered, the applicant No. 2 would have had no remedy and the respondents could have urged whatever would have been sought is only a concession which can or cannot be granted ^{but} and that would not absolve the respondents statutory need to consider the request in the context of rules which already existed. It is therefore not possible to agree with the contention of the respondents that the prayer should not be granted.

7. In the result, the application is allowed. Assistant Director of Estates, New Delhi, who according to the respondents is the proper authority to consider the request made by the applicants, shall consider the explanation which the applicant may show within two weeks from today, to the show-cause notice dated 25/10/94 and after giving a personal hearing to the applicant No. 1, take follow-up action by passing reasoned order on the show-cause notice dated 25.10.94 within four weeks thereafter

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The question whether Applicant No. 2 should be granted ad-hoc allotment on father-to-son basis under the relevant rules shall be considered by the Assistant Director of Estates, New Delhi within 4 weeks from today and that the application shall be decided by a reasoned order after giving an opportunity to the applicant to make his representation in that respect afresh within two weeks. The applicant shall not be evicted pursuant to the orders which may be passed by the appropriate authorities for a period of 10 weeks from today, subject to applicant No. 1 depositing all the arrears of rent upto date at normal rent within a period of two weeks. If the rent is not so deposited, the interim protection ~~which will be~~ granted to the applicant will be lost. With this direction, the O.A is disposed of. No order as to costs.


(M.S. DESHPANDE)
VICE CHAIRMAN

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