

(2013) 08 DEL CK 0244
In the Delhi High Court
Case No : Writ Petition (C) 3611 of 2011

Gurnam Singh

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 30-08-2013

Acts Referred:

Citation : (2013) 08 DEL CK 0244

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Jasmeet Singh, for the Appellant; Kailash Golani, for Union of India and Mr. Charanjeet Singh, for Respondents 2 and 3, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—The petitioner before this Court claims to be a victim of the riots which took place in Delhi in October/November, 1984. According to the petitioner at the time the said riots took place, he was residing with his family members, including his parents in DDA Flat No. 1646, Janta Flats, Nand Nagri, Shahdara. On 09.11.1984, the petitioner submitted a complaint to SHO, Police Station Seema Puri, alleging therein that in the communal riots on 02.11.1984 his Taxi bearing No DLT 2169 had been burnt down and the household articles detailed in the complaint were also looted away.

The following were the household articles mentioned in the said complaint:-

1. Two tape records.
2. Two sewing machines
3. Two table fans
4. Two wrist watches
5. Two double beddings (Dunlop)

6. One Mixie
7. One wall clock
8. Two bangles, One Kada, Two rings (all of gold)
9. Two silver sets
10. All utensils of house
11. One dinner set
12. Ten sarees
13. Twelve ladies suits
14. One gas stove
15. Four rajaies
16. Five woolen suits
17. Three gents sweaters
18. Two ladies sweaters
19. Some glass (crystal) utensils
20. Two boxes (iron)
21. One big wooden tray
22. One pressure cooker
23. One press
24. Dress table broken down
25. Five woollen saals
26. Rs. 5000/- cash

2. On 24.12.1987, the petitioner submitted an application to the Lieutenant Governor of Delhi seeking compensation for the damage caused to his property during riots and he claims to have received an acknowledgement from the said office on 31.12.1987. The application form with Deputy Commissioner, Tis Hazari was filled up on 06.01.1998. Vide communication dated 16.01.2006, the Government of India, Ministry of Affairs decided to sanction ex-gratia amount and other assistance to the victims of 1984 riots subject, inter alia, to the following terms:-

iv. No new claims for grant of ex-gratia for death or injury would be entertained. Only those who received ex-gratia earlier should be eligible for the enhanced additional ex-gratia amount. However, if there are any pending or disputed cases which are awaiting decision for want of the necessary proof/evidence, such cases

can be considered if they are finally accepted as genuine claims;

v. Ex-gratia for damaged residential properties would be paid @ 10 times the amount originally paid after deducting the amount already paid

3. Since no ex gratia payment was made to the petitioner on account damage, alleged to have been caused to his property, W.P.(C) No. 2062 of 2007 was filed by him before this Court seeking ex-gratia payment. The said writ petition was contested by the respondent on the ground that since the name of the petitioner was not included in the initial list, he was not entitled to enhanced compensation.

The writ petition was disposed of with the following order:

Learned counsel for the petitioner, on the other hand, has drawn my attention to various documents from 1987 onwards, enclosed with the Writ Petition, making prayer for payment of ex-gratia compensation on account of damage to the residential property. The documents placed on record show that the respondent themselves have acted on the said representations and the same were forwarded to the concerned Department, namely, Deputy Commissioner, Tis Hazari, Delhi and Claims Settlement Officer, Tis Hazari. It is the case of the petitioner that his claim for payment of ex gratia compensation has never been examined or gone into and he was never called for any hearing or was asked to substantiate his claim till 6th February, 2007. After the hearing also, no order has been passed accepting or rejecting his case.

Respondent-GNCTD will appoint the Screening Committee within two months from the date of receipt of copy of this Order and intimate the petitioner the date of his personal hearing. The petitioner will appear before the said Screening Committee and substantiate his claim for payment of ex gratia compensation under the schemes floated by GNCTD/UOI. The said Screening Committee will examine the documents produced by the petitioner and if the case is found to be genuine and covered by the policy, his claim may be considered. It is made clear that this Court has not examined the merits of the claim relating to damage suffered during 1984 riots.

4. Pursuant to the order dated 12.08.2009, the petitioner appeared before the Screening Committee on 05.11.2009. The original record in respect of the application of the petitioner could not be traced with the concerned Department and, therefore, the Screening Committee permitted the petitioner to provide copies of documents in support of his claim. It was also directed that Claims Settlement Officer will also visit the site along with the petitioner and a speaking order would then be passed. The petitioner provided a list of documents/ photocopies of documents to the SDM, Seema Puri and on 30.01.2010, a visit to Flat No. 1646 was also undertaken. The Screening Committee rejected the claim of the petitioner in the following terms:

As per the documents supplied by the applicant, it is apparent that no initial compensation was paid to him by the Delhi Government in respect of loss to his

house hold items. Even, during the course of visit to the house where the applicant was said to have been residing in 1984, it could not be made out that he had suffered by losses to his household goods during the 1984 riots.

In view of the above and also in view of the fact that the name of the applicant does not figure in the list of those who had been paid initial compensation in respect of 1984 riot victims, the case of the applicant for grant of ex-gratia on account of damage residential property/household goods is hereby rejected.

5. The grievance of the petitioner is that before rejecting his claim, he was not given opportunity to produce evidence in support of his claim. According to the petitioner, two neighbours, namely, Usha Jain, W/o Madan Lal Jain and Kusum Jain W/o Rajinder Jain, both resident of Flat No. 1647, DDA Janta Flats, Nand Nagri, Delhi, had stated that loss had been caused to the goods. The Screening Committee has rejected the claim of the petitioner on the ground that he could not substantiate any loss to his goods during the 1984 riots. In the order of the Screening Committee, there is absolutely no reference to the statement of Usha Jain and Kusum Jain. The case of the petitioner is that whatever documents he had to substantiate his claim in respect of loss to the articles mentioned in the claim application/complaint to the police, were also destroyed during the riots and that is why he has not been able to file documents, evidencing purchase of the said articles. Even otherwise, most of the articles are such that no one is expected to retain invoice of purchase of those articles. For example, no one is likely to retain receipts of the purchase of small articles like as a mixer, wall clock, utensils, dinner sets, saris, ladies suits, gas stove, boxes, iron, etc. The order passed by the Screening Committee does not indicate on what basis it came to the conclusion that the petitioner had not suffered any loss during 1984 riots. No neighbour stated before the Screening Committee that there was no damage to the goods of the petitioner during 1984 riots. No one stated before the Screening Committee that the petitioner was not residing in Flat No. 1646. I also find that despite the order dated 12.08.2009 passed by this Court in W.P. 2062 of 2007, the SDM/Screening Committee has again taken into consideration the fact that no initial compensation was paid to the petitioner. This factor, to my mind, could not have been considered once the plea in this regard was rejected by this Court vide order dated 12.08.2009. In these circumstances, the order passed by the Screening Committee being without any supporting material and without opportunity to the petitioner to produce his witnesses, cannot be sustained. The said order is accordingly quashed. The Screening Committee is directed to permit the petitioner to examine before it such persons as he may deem appropriate to examine in support of his claim for compensation. The petitioner shall produce the witnesses before the Committee on such date as the Committee may fix in this regard, within four weeks from today. The Committee shall thereafter pass a fresh speaking order, dealing with the evidence which the petitioner may produce in support of his claim, on or before 30.11.2013. It is made clear that the claim of the petitioner shall not be rejected on the ground that the initial compensation was not paid to him.