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**(2003) 07 DEL CK 0055**  
**In the Delhi High Court**  
**Case No : CW. No. 5845/98**

Smt. Dhanpati Devi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 09-07-2003

**Acts Referred:**

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 9

**Citation :** (2003) 6 AD 410 : (2004) 112 DLT 610

**Hon'ble Judges :** Badar Durrez Ahmed, J

**Bench :** Single Bench

**Advocate :** B. Krishan, for the Appellant; A.V. Sinha, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Badar Durrez Ahmed, J.—In this petition, the petitioner has prayed for the quashing and setting aside of, inter alia, the judgment and order dated 5.11.98 passed by the learned Additional District Judge, Delhi in appeals No. PPA 191/88 and PPA. 192/88 filed u/s 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter refer to as 'the Act'). The appeals were preferred against the composite order of the Estate Officer dated 10.10.88 whereby the petitioner had been ordered to be evicted from the public premises bearing quarter No.T-29/3, Red Fort, Delhi-6 and had also been ordered to pay damages at the rate of Rs.500/- per month for the period of her unauthorised occupation i.e. from 20.10.97 till she would vacate the said accommodation.

2. The said accommodation was allotted to the petitioner's husband who passed away on 20.10.96 while still in service. It is an admitted fact that after his death no dependent member of his family has been given government employment till date. The allotment of the said accommodation in the name of the petitioner's late husband was cancelled w.e.f. 20.10.97 after permitting the petitioner to retain the said accommodation for a period of one year after the death of her husband as per the applicable rules. In view of the fact that the petitioner did not vacate the said accommodation despite cancellation of allotment in her favor,

proceedings for eviction from the said premises were initiated under the said Act which resulted in the passing of the order dated 10.10.98 by the Estate Officer whereby eviction was ordered. Apart from eviction, as noted above, damages at the rate of Rs.500/- per month for the period of her unauthorised occupation were also imposed.

3. Upon going through the impugned judgment and order dated 5.11.98 and on considering the submissions of the learned counsel for the petitioner, it appears that the petitioner initially relied upon an office memorandum dated 17.3.81 to establish that her occupation was not unauthorised and that she could not be evicted under the said Act. In the said office memorandum dated 17.3.81 which is quoted in extenso in the impugned judgment and order dated 5.11.98, it is clearly pointed out that dependent family members of deceased civilians paid from defense service estimates were eligible to retain government accommodation at normal rates for a period not exceeding four months from the date of their death. It is further noted in the said office memorandum that ad hoc allotment of accommodation to the dependents of the deceased civilian Government servant could be made provided the said dependent got employment in an eligible office within a period of 12 months from the demise of the individual and provided that the accommodation continued to be in the said dependent's occupation and had not been vacated in the interregnum. It was further clearly stipulated that eviction in such cases could not be delayed on the consideration that the dependent was likely to get an appointment. It further provided that such persons were permitted to retain the accommodation for a further period not exceeding six months, in another words, totalling to a period of one and a half year from the date of death of the erstwhile employee. It is clear that the petitioner's husband passed away on 20.10.96 and one and a half years period expired on 20.4.98. It is abundantly clear that during this period, no dependent member of the petitioner's late husband was given employment. As such, even as per the office memorandum of 17.3.1981, the petitioner was in unauthorised occupation of the premises in question. All these facts and circumstances have been considered in detail by the learned Additional District Judge and I find that there is no case made out for the interference with the same.

4. At this stage, however, learned counsel for the petitioner has placed before this court an office memorandum dated 31.8.2001 relating to the subject of concession of ad hoc allotment of General Pool residential accommodation admissible to eligible ward/spouse in the event of death of government employees. This office memorandum which has been placed before me and has been taken on record, has been issued by the Ministry of Urban Development & Poverty Alleviation, Department of Urban Development, Directorate of Estates. In this office memorandum, it is noted that representations have been made by the ward/spouse who could not secure employment within the period prescribed from time to time for regularisation of Government accommodation in the event of death of the allottee. It is indicated that the matter has been considered and

regularisation of entitled type of accommodation was allowed from the date of appointment in government service, as a one time relaxation in respect of 32 cases which were mentioned in annexure-1 to the said office memorandum. Learned counsel for the petitioner places reliance of this office memorandum and says that although only 32 cases have been mentioned in annexure -1, the general principles that have been stated in the office memorandum would apply and particularly those mentioned in para (c) and (d) would apply to the case of the petitioner also. I do not agree with this submission. First of all, the office memorandum was issued on 31.8.2001 whereas even the petitioner's appeal had already been decided on 5.11.98. On this ground alone the office memorandum would not be applicable to the case of the petitioner. Secondly, in paragraph 2A of the office memorandum dated 31.8.2001, it is clearly indicated that regularisation of the entitled type of accommodation would be allowed from the date of appointment in government service. Admittedly, no dependent member of the petitioner's late husband has been given government appointment. As such, the question of regularisation does not at all arise. Thirdly, the same paragraph i.e. paragraph 2A of the office memorandum clearly mentions that the regularisation was being granted as a one time relaxation in respect of 32 cases which were shown in annexure 1. The petitioner's case is admittedly not amongst the 32 cases that are mentioned in annexure 1 and on this ground also the petitioner is not entitled to the benefit of the said office memorandum. Learned counsel for the respondent also submits that in any event this office memorandum is not applicable in respect of defense pool accommodation and those accommodations would be covered under SRO 308/1978. In view of the fact that I have already held that the petitioner is not entitled to any relief in this petition, I need not go into this question in this case. The writ petition is accordingly dismissed with no order as to costs.