
(1995) 03 DEL CK 0052

In the Delhi High Court

Case No : Civil Writ Petition No. 55 of 1995

Sukh Dev

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 15-03-1995

Acts Referred:

Citation : (1995) 33 DRJ 306

Hon'ble Judges : Dr. M.K. Sharma, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : Meena Chaudhary and R.D. Mehra, for the Appellant;

Judgement

M.K. Sharma, J.

(1) This writ petition filed by the petitioner is directed against the order passed by the respondent No.3 on 14.9.1993 by which the petitioner was directed to vacate quarter No.3 of the Bal Bhawan Staff Quarters, which was being occupied by him illegally since April 1994 and which he had not vacated in spite of repeated notices therefore.

(2) The petitioner was appointed as a peon by the respondents in the office of the Bal Bhawan Society with effect from 1.10.1980 and thereafter he was confirmed in the said post of Peon in the year 1982. It may be stated herein that the father of the petitioner was also working with the respondents and he was allotted the said staff quarter No.3, Type I, by the respondents which is located within the compound of the Bal Bhawan Society. It is stated that the petitioner and his father have been living in the same premises/ residential quarter because of which the petitioner was also denied the house rent allowance as he was using the accommodation allotted to his father. After the father of the petitioner retired from service of the respondents on attaining the age of superannuation w.e.f. January 1994 the petitioner submitted several representations to the respondents for the allotment/regularisation of the residential accommodation in his name after retirement of his father to which no specific reply has been given

by the respondents till date. Instead on 4.9.1994 the aforesaid impugned notice was sent to the petitioner directing him to vacate the said quarter within 15 days from the date of the receipt of said memo.

(3) The respondents have contested the writ petition and have also filed the counter affidavit stating inter alias that the said quarter was allotted to the father of the petitioner who was a sweeper and who has since retired from service of Bal Bhawan Society and that the petitioner started living with his father in the quarter allotted to his father w.e.f. 3.6.1989 without seeking permission or even without informing the office. It is further stated that his father made a written complaint to the respondents about the illegal occupation of the petitioner Along with him on 12.7.1990 alleging that his son, the petitioner who came to live with him for a few months, is misbehaving and harassing him and he may be directed to vacate the premises allotted to the father of the petitioner. It has been further stated in the counter affidavit that there are two main conditions for the allotment of a quarter to the eligible ward of a retiring/retired government official in lieu of the quarter allotted to him - (i) should apply to the competent authority in the prescribed form Along with an affidavit; and (2) that the said concession would not be available to an eligible dependent, if any other dependent (member of the family) is already in occupation of Government accommodation. It is stated that the aforesaid two conditions are not fulfilled in the case of the petitioner, as the father of the petitioner instead of submitting an affidavit as required under the aforesaid condition sought the help of the police for getting the quarter vacated from his son. Again another son of Shri Bharti, the father of the petitioner namely - Munna is also working in Bal Bhawan has already been provided with a quarter in Bal Bhawan. It is further stated that there are only 8 type I quarters in the premises of Bal Bhawan and the said quarters are allotted to the personnel whose presence is required for duty round the clock such as electricians, hostel staff and drivers and others for emergency duty and accordingly the petitioner is not entitled to be allotted with the aforesaid quarter being a peon with the respondent.

(4) Ms. Meena Chaudhary Sharma, the learned counsel appearing for the petitioner drew our attention to the definition of "family" as given in the Compendium of the allotment of Government Residences (General Pool in Delhi) Rules, 1963 and gist of the instructions issued by the Ministry of Urban Development and Directorate of Estates and also to instructions contained in relaxation clause xxxv for the relaxation of rules laying down concession of adhoc allotment of General Pool accommodation admissible to eligible dependents/relations of Government employees on their retirement, and on the basis thereof submitted that the petitioner under the aforesaid provisions is entitled to be allotted with the aforesaid quarter as he fulfills the aforesaid requirements provided in the Rules.

(5) We have also heard the learned counsel appearing for the respondents. However, in our considered opinion the aforesaid provisions relied upon by the

learned counsel for the petitioner are not attracted and are not applicable to the facts and circumstances of the present case. The petitioner cannot come within the definition of "family" of his father as he was not dependent on the father at the time of his retirement. The provisions of clause xxxv of the Relaxation of Rules are also not applicable in the case of the petitioner as the residence of the petitioner with his father for at least three years immediately preceding the date of his retirement was absolutely unauthorised as no permission was obtained from the respondents in that respect and also without permission of his father as is reflected from the contents of the complaint filed by the father of the petitioner to the respondent referred to above.

(6) The records of the case further disclose that certain conditions have been prescribed by the respondents for the allotment of a quarter to the eligible ward of retiring/retired government official. The aforesaid conditions have been specifically mentioned in the counter affidavit to which no rejoinder has been filed by the petitioner denying that the same are not the pre-conditions for the allotment of a quarter. On perusal of the record of the case we find that no affidavit has been filed by the petitioner from his father stating that allotment of quarter to his ward will facilitate his living after retirement as his son would keep him and his wife etc. in the quarter that may be allotted, which is required to be filed as laid down by the respondents. It further appears that one of the brothers of the petitioner namely - Munna who is also working in Bal Bhawan has already been provided a quarter in Bal Bhawan and accordingly the second condition for allotment of quarter is also not fulfilled. The petitioner being a peon in the office of the respondent his presence is also not required for emergency duty round the clock as there are only 8 type I quarters in the premises of Bal Bhawan and which are allotted to the personnel whose presence is required for duty round the clock such as Electricians, Hostel staff, Drivers and others for emergency duty, the petitioner is not entitled, as of right, to be allotted with one of those quarters.

(7) In the result, this writ petition has no merit and is accordingly dismissed, but without any costs.

(8) However, taking into consideration the ongoing academic session and the examinations in the Schools where the children of the petitioner have been appearing and also with a view to enable the petitioner to find out an alternative accommodation, we allow time to the petitioner till 30.6.1995 to vacate and hand over vacant possession of the quarter to the respondents, failing which it will be open to the respondents to take appropriate action against the petitioner in accordance with law.