

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 953/2008

PEERU BHAWANA Petitioner
Through Mr. B. Krishan, Adv.
versus

N.C.T OF DELHI & ORS Respondent
Through Ms. Reeta Kaul, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

09.02.2010

%

On 13th April, 2006, the petitioner, Mr. Peeru Bawana was appointed as a Sweeper in National Cadet Corps Groups, on compassionate grounds after death of his father. The said appointment was made after the Central Administrative Tribunal, New Delhi vide judgment dated 20th May, 2005 had directed the respondents to consider the case of the petitioner for compassionate appointment. Thereupon, the petitioner's case for appointment on compassionate ground was approved by the Government of NCT of Delhi on 9th August, 2005.

2. The petitioner was residing with his father in Type-I accommodation

located at Meerabai Polytechnic Campus, Maharani Bagh, New Delhi. The petitioner continued to reside and occupy the said property even after death of his father and since his appointment as a Sweeper on 13th April, 2006. The petitioner after appointment is eligible for allotment of government accommodation from general pool as well as from the pool of government of NCT of Delhi. Meera Bai Polytechnic is a part of the Directorate of Training and Technical Education, Government of NCT of Delhi.

3. The respondent, Government of NCT of Delhi has refused to regularize the allotment of Type-I accommodation at Meera Bai Polytechnic Campus, Maharani Bagh, New Delhi relying upon circular dated 9th March, 1999. The relevant portion of which reads as under:-

“2. The matter has been considered.....the eligible ward/spouse of the ex-allottee may submit their applications for regularization/allotment of alternate accommodation within a period of two months from the date of retirement or death. In cases of death where employment is secured within the permissible period of retention, such application may be made within two months from the date of employment in an eligible office. In case the applications are not submitted within the prescribed time limit, the applicant shall be liable to be rendered ineligible for the

concession of regularization/allotment of alternate accommodation and even in cases where such requests are entertained, he/ she shall pay damages for the period of overstay, in case the alternate accommodation could not be offered within the permitted period of retention of Government accommodation.”

4. Relying upon the aforesaid clause, eviction proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 were initiated against the petitioner and eviction order dated 12th June, 2006 was passed by the Estate Officer. The said order has been upheld by the Additional District Judge vide impugned order dated 4th December, 2007.

5. The circular dated 9th March, 1999, issued by the Directorate of Estates stipulates that eligible ward/spouse of the ex-allottee can submit their applications for regularization/allotment of alternate accommodation within a period of two months from the date of retirement or death. It further stipulates that in cases of death, where employment is secured within the permissible period of retention, such application may be made within two months from the date of employment in eligible office. The last portion stipulates that in case the applications are not submitted within the prescribed time limit, the applicant shall be ineligible for the concession of

regularization/allotment of alternate accommodation and even in cases where such requests are entertained, he/she shall be liable to pay damages for the period of overstay.

6. As noticed above, in the present case the petitioner had applied for appointment on compassionate ground after the death of his father on 11th January 2003. The respondents, however, did not accept the said request of the petitioner and this forced the petitioner to file a petition before the Central Administrative Tribunal. The said petition was decided vide judgment dated 20.5.2005 and thereupon the case of the petitioner was approved by the Government of NCT of Delhi on 9th August, 2005. The petitioner was appointed and has been working as a Sweeper from 13th April, 2006. The eviction order passed by the Estate Officer is dated 12th June, 2006. The facts of the case stated above do not establish and show any default or lapse on the part of the petitioner but the respondents themselves did not process the application of the petitioner for compassionate appointment and forced the petitioner to approach the Central Administrative Tribunal. Even after the order dated 20th May, 2005 passed by the Central Administrative Tribunal, Government of NCT of Delhi took time to process and issue letter of

appointment dated 9th August, 2005. Thereafter, there was again delay and the petitioner was employed on 13th April, 2006. The said periods cannot be counted for the purpose of calculating the time prescribed in the circular dated 9th March, 1999. Keeping in mind, conduct of the respondents in the present case, the aforesaid clause cannot be applied. The petitioner cannot be penalized for fault of the respondents and delay on their part. It is also noticed that the petitioner is working as Sweeper and is entitled to Type-I quarter. It will not be fair to compare the case of the petitioner with the cases of allotment to officers.

7. The writ petition is allowed and the impugned orders passed by the Estate Officer dated 12th June, 2005, and upheld by the Additional District Judge vide order dated 4th December, 2007, are set aside and quashed. It is, however, open to the respondents to allot another accommodation to the petitioner, if they require the accommodation presently in occupation of the petitioner. Counsel for the petitioner has stated at bar that the petitioner will not object to the allotment of an alternative accommodation and is ready and willing to shift. In the facts and circumstances of the case, there will be no order as to costs.

SANJIV KHANNA, J.

FEBRUARY 09, 2010

NA