

Dharam Dev Vs. Union of India and ors.

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Court : Delhi

Decided On : May-17-1988

Reported in : 34(1988)DLT318; 1988RLR453; 1989(1)SLJ11(Delhi)

Judge : P.K. Bahri, J.

Acts : Administrative Tribunal Act, 1985 - Sections 3

Appeal No. : Civil Writ Appeal No. 2429 of 1983

Appellant : Dharam Dev

Respondent : Union of India and ors.

Advocate for Pet/Ap. : S.L. Hans,; Sanjeev Kumar and; K.R. Lal, Advs

Judgement :

P.K. Bahri, J.

(1) A preliminary objection has been raised by the learned counsel for the respondents that the High Court has no jurisdiction to decide this writ petition.

(2) The petitioner in this petition brought under Article 226 of the Constitution of India has sought mandamus requiring the respondents to allot the Railway Quarter to the petitioner on over-riding priority basis so that the petitioner may be able to vacate the accommodation allotted to him from the Central Pool by the Railway

Board and for also direction to the Directorate of states not to evict the petitioner from the present accommodation and requiring the petitioner to pay the penal rent in respect of the said accommodation till alternative accommodation is provided to the petitioner by the Northern Railway.

(3) The petitioner is an employee of Northern Railway admitted and had been allotted a quarter by the Northern. Railway earlier and later on he went on deputation to Railway Board and he vacated the Railway Quarter and was allotted the present accommodation bearing Quarter No. 151 Sector-XII at R. K. Puram from the general pool maintained by Directorate of Estates at the instance of Railway Board in January. 19/8. The petitioner's deputation came to an end and he was repatriated to the parent department and had been asked to vacate the accommodation provided to him from the general pool. as under the rules of allotment applicable to the general pool accommodation the petitioner became disentitled to remain in accommodation of the said quarter. The petitioner has set up the plea that at the time he came on deputation to the Railway Board there was a circular issued by the Northern Railway that in case an employee returns from deputation from Railway Board he would be allotted a quarter by the parent department on priority basis. This circular was later on superseded and the case set up by the petitioner is that even though the circular has been superseded by another circular issued but the petitioner had gone on deputation on the basis of an assurance held out in the previous circular, hence, the respondents are legally bound to provide him the accommodation at priority basis.

(4) The question which arose for decision is whether the subject matter of dispute arising in this writ is covered by the provisions of Administrative Tribunals Act, 1985 or not? Section 3(q) defines service matters as follows :--

'SERVICE matters', in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation owned or controlled by the Government, as respects:- (i) remuneration (including allowances),, pension and other retirement benefits : (ii) tenure including

confirmation, seniority, promotion, reversion, premature retirement and superannuation ; (iii) leave of any kind , (v) disciplinary matters ; or (v) any other matter whatsoever ;'

(5) Section 14(1)(b) clearly lays down that in respect of service matters, the Administrative Tribunal shall have exclusive jurisdiction and Section 29 of the Act makes it clear that all matters pending in any court which have come under the jurisdiction of the Administrative Tribunal shall stand transferred to said Tribunal. So. it cannot be disputed that right of a particular employee to have an allotment of residential accommodation is a service matter because it is a service benefit which flows from the person being in government service. Section 3(q) clearly lays down that in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union would be included in the definition of 'service matters' and then five clauses have been given. First four clauses specifically give certain matters which would be deemed to be covered by the expression 'service matters'. Clause (v) clearly mentions that any other matter whatsoever, would also be covered by the subject 'service matters' but obviously such matters must relate to the conditions of service. Clause (v) cannot be read ejusdem genes with the preceding four clauses. Clause (v) has to be read in connection with the main Clause (q). The main Section 3(q) is quite comprehensive to include all matters pertaining to the service conditions of the employees so it cannot be argued any rationality that allotment of a government quarter to an employee is not a matter of his service conditions. I, therefore, hold that the subject matter of the present writ clearly falls under the expression 'service matters' and thus only the Administrative Tribunal has the jurisdiction to try the matter and the present case would be deemed to have been transferred to the said Tribunal. The parties are directed to appear before the Registrar of the Tribunal on 1st August, 1988. The office shall take steps to send the file to the Tribunal at the earliest.