

2-

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1344 of 2001

New Delhi, this the 5th day of March, 2003

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Vishwapati
S/o Shri Aksham Chand
Fitter (C&W)
under Sr. Section Engineer (C&W)
Delhi Sarai Rohilla,
Delhi.

-APPLICANT

Residential Address

116-A Railway Colony,
Loco Shed,
Kishan Ganj,
Delhi.

(By Advocate: Shri G.D. Bhandari.)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Bikaner.

-RESPONDENTS

(By Advocate: Shri R.L. Dhawan)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Applicant in this OA assails a letter dated 9.2.2001 vide which the applicant's representation for regularisation/allotment of Railway Quarter No. 116-A Loco Shed, Railway Colony, Kishan Ganj, Delhi has been rejected.

2. The facts in brief are that the applicant was appointed as an Apprentice Fitter on compassionate grounds vide respondents order dated 24.10.1997. He was directed to undergo a training for 3 years. After

km

completion of training, he was posted as C&W Fitter under CDO/Delhi Sarai Rohilla where he joined on 19.12.2000.

3. The applicant claims that he has been residing with his parents ever since his childhood since his father was also a Railway employee so applicant having been appointed on compassionate grounds, is entitled to get the quarter regularised in his own name.

4. However, his request for the same has been illegally rejected on the ground that the quarter in question is a Type-I quarter whereas the applicant is entitled to Type-II quarter. Besides that the order for his forcible eviction under the P.P. Act has also been passed. Therefore, the controlling authority has expressed his inability to recommend the case of the applicant for regularisation of quarter in question.

5. Assailing the same, the applicant has submitted in his grounds to challenge this letter that since the applicant has been appointed on compassionate grounds, she he is entitled for regularisation of the quarter.

6. It is further submitted that the respondents had not paid any HRA to the applicant which is a condition precedent for those employees who are allotted quarter and the respondents also admitted that they had deducted his usual licence fee/assessed rent of Rs.42/- from the applicant's salary for December, 2000 and

ku

January, 2001 which shows that HRA has been deducted for the months of December, 2000 and January, 2001 after which it has been stopped.

7. The applicant further submits that as per the Railway Board letter if a ward/son/daughter have been living/sharing accommodation with the retiring/deceased railway servant for at least six months before the date of retirement or death, he is entitled for regularisation of the same quarter. Thus there is a violation of statutory provisions for regularisation of the quarter and the directions should be issued to the respondents to regularise the quarter in the name of the applicant.

8. The respondents are contesting the OA. The respondents in their reply pleaded that the applicants father had earlier filed an OA 2164/96 in which he has claimed a relief with regard to out of turn allotment/regularisation of the Railway quarter in the favour of his son, i.e., the applicant now. The applicant in this OA cannot be allowed to file a separate petition since applicant's father had failed to get it regularise. Moreover the applicant's father is not a party to the present application, so on that ground also the same is liable to be rejected.

9. It is further submitted that applicant's father was made to retire on medical grounds on 24.11.994. However, he was allowed to retain the quarter at his request till 24.3.95 but applicant's father did not vacate the premises, therefore, he (the applicant in the present OA) is an unauthorised occupant since 24.3.95.

hu

Eviction proceedings were started against the applicant and vide Annexure R-1 eviction order had been passed against the applicant.

10. It is further submitted that the applicant was appointed on compassionate grounds in Railway service w.e.f. 19.12.2000 as such he is not eligible for out of turn allotment of the said Railway quarter. The applicant submitted his application for out of turn allotment on 29.12.2000 as such he is not eligible for out of turn allotment of the said Railway quarter which has been rightly rejected by the competent authority vide Annexure A/1 on 9.2.2001.

11. It is also submitted that an employee who is appointed on compassionate ground and was living with his father in a Railway quarter, his accommodation can be regularised, if he is appointed within a year of the retirement/death of his father. In case the appointment is after the period of one year then the same cannot be regularised.

12. As regards the deduction of R.42/- in the Head of Rent for January, 2001 is concerned, it is stated that the same was made inadvertently and the same was paid back to the applicant in the month of May, 2001 which he had accepted and at present the applicant is not paying anything towards HRA. Thus it is submitted that the applicant is not entitled for allotment/regularisation of the accommodation and the OA should be dismissed.

hu

13. I have heard the learned counsel for the parties and gone through the records of the case.

14. The learned counsel for the applicant submitted that the applicant's father was medically retired on 24.11.1994. Thereafter he made an application for appointment on compassionate grounds, but it is the respondents who had delayed the appointment of the applicant and that is why the respondents are denying him the regularisation. It is an admitted case of the parties that in case compassionate appointment is made within 12 months of the date of death of the employee, the appointee is entitled for out of turn allotment of accommodation as such the same accommodation could be regularised, if the appointee is eligible for the same type or higher type. Otherwise he/she will be allotted the type for which he/she is eligible on out of turn basis as and when a quarter is available. The counsel for the applicant submitted that in this case appointment has been delayed by the respondents themselves so this condition of 12 months do not apply and the applicant who has been granted appointment on compassionate ground is entitled to regularisation of quarter in question because for no fault on his part his appointment on compassionate grounds has been delayed.

15. In reply to this, the learned counsel for the respondents submitted that the applicant was first offered a Group 'D' post but he refused to accept the same. Thereafter still the applicant was called for written test and interview for Group 'C' post but the applicant had failed in the test and thereafter he was

an

called upon second time and when he had passed the test, he was sent for Apprentice Fitter training and after completing his training, he was appointed only on 19.12.2000. It is so stated in the affidavit filed by the applicant. Admittedly, the applicant has not been appointed within the period of 12 months of the retirement of his father on medical grounds. Though the applicant had been offered a Group 'D' job but the applicant had refused to accept the employment, so applicant now cannot allege that there was delay on the part of the respondents to give him a suitable employment. It is only after the applicant had qualified the test, he was selected for Apprentice Fitter and was sent for training and thereafter given a job. But the job could not be provided within a period of 12 months which makes him entitled for regularisation/allotment of a quarter on out of turn basis. Thus I find that the applicant cannot find fault with the orders passed by the respondents.

16. There is no other ground on the basis of which his accommodaiton may be regularised in his name.

17. It will not be out of place to mention that Eviction Proceedings had already taken place against the applicant's father and an order had already been passed under the Public Premises (Eviction of Unauthorised Occupants) Act so on that score also I find that this court should not intervene to regularise or give a direction to the respondents to allot out of turn allotment.

ku

18. No other contention was raised before me.

19. In view of the above, OA is devoid of any merit and the same is dismissed. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

/Rakesh