

Central Administrative Tribunal  
Principal Bench

(11)

O.A. No.2231/2001

New Delhi, dated this the 16th May, 2002.

HON'BLE MR. S.A.T.RIZVI, MEMBER (A)

1. Shri S.Arun Kumar,  
S/o late Shri Sasidhara Kurup  
Apprentice O&EP Fitter  
Under Sr.Sectional Engineer/PC  
Shatabdi Exp.  
Northern Railway  
New Delhi.
2. Smt.Been Kurupar,  
W/o late Shri Sasidhara Kurup  
r/o 3-B, Railway Colony  
Pandav Nagar,  
Patel Nagar,  
New Delhi. ....Applicants.

(By Advocate: Shri B.S.Mainee)

Versus

Union of India:Through

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.
3. The Divisional Superintending Engineer (Estate)  
Northern Railway,  
DRM Office, State Entry Road,  
New Delhi. ....Respondents.

(By Advocate: Shri R.L.Dhawan)

ORDER(ORAL)

By Hon'ble Shri S.A.T.Rizvi, Member(A)

Heard learned counsel on either side.

2. Shri S.Kurup, a railway servant died in harness on 13.2.996. Shri S.Arun Kumar, Applicant No.1 herein, who is the son of the deceased employee was a minor on 13.2.1996. In order to tide over the acute financial crisis, following Shri Kurup's death,

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Smt. B.Kurup was offered an appointment on compassionate ground on 27.5.1996. She refused and instead made a request that an appropriate post may instead be given to her son, the Applicant No.1 herein. The Applicant No.1 attained the age of 18 years and this became a major on 12.5.2000, i.e., nearly four years after the death of his father. He was offered appointment on compassionate basis as Apprentice Fitter in C&W Department. That offer was made on 12.5.2000 itself. The Applicant No.1 did not accept the offer and requested for possible appointment in Electrical A.C. job on the ground that his late father had worked in Electrical OHEX. Accordingly by respondents' letter of 9.8.2000, the said applicant was offered appointment as Apprentice Fitter OEP w.e.f.15.9.2000.

3. After his appointment as above, he submitted an application for out of turn allotment/regularisation of the same Railway quarter which was allotted to his late father and in which he lived. After a consideration of the aforesaid representation of the applicant, the respondents have rejected the same vide their letter of 3rd July, 2001 (Annexure A-1) by taking the ground that there has been a delay of more than four years in his securing an appointment which is on the applicant's own account. By the same letter, the applicant has been requested to vacate the official quarter immediately

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failing which vacation proceedings were to be initiated. The aforesaid letter (Annexure A-1) is under challenge in this OA.

4. The learned counsel appearing on behalf of the respondents has submitted that the widow of the deceased employee, Applicant No.2 herein, was permitted to retain the official Railway quarter in question for a period of one year up to 13.2.1997. Upon the expiry of the aforesaid time limit, the applicants should have vacated the quarter. They have not done so and, therefore, they are to be regarded as occupying the aforesaid quarter un-authorisedly from 14.2.1997 onward. A show cause notice dated 18.2.1997 was issued and thereafter a registered letter was sent to the applicants on 7.4.1997. By the aforesaid letter, the Applicant No.2 was required not only to vacate the aforesaid quarter but also to pay penal rent from 14.2.1997 onward in accordance with the rules. Subsequently, an application dated 28.4.1997 has been filed before the Estate Officer, Northern Railway, New Delhi for initiating the vacation proceedings against the Applicant No.2. These proceedings are currently pending before the Estate Officer, Northern Railway.

5. The respondents' case is that the existing Rules do not provide for a period of more than 12 months for retention of <sup>the</sup> official ~~the~~ Railway quarter under any circumstances. No exception can be made in the case of the applicants as there is no corresponding provision in the Rules and the

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instructions issued by the Railway Board. He has also submitted that a bunch of similar cases had come up for decision before the Division Bench of this Tribunal in OA Nos. 408/96, 326/96 etc. by its order of 4th November, 1996 (Annexure A-6), the Tribunal dismissed all the 14 OAs. A perusal of the aforesaid judgement rendered by this Tribunal shows that in all those cases the aforesaid limit of 12 months had been exceeded. According to the learned counsel, the matter is now required to be dealt with by the Estate Officer, Northern Railway, in his capacity as competent authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

6. I have carefully considered the submissions made. The learned counsel appearing on behalf of the applicants has not been able to place before me any Rules or instructions which would provide for the regularisation of the time limit of more than 12 months in the circumstances of the present case. I do not, therefore, find any merit in the present OA which has to be disallowed.

7. While I am not inclined to interfere with the proceedings initiated by the respondents by filing an application before the Estate Officer, Northern Railway under the aforesaid Act, I find enough justification in the circumstances of this case to raise a hope that the respondents will, on an application being made for the purpose, proceed to allot an official quarter in favour of the Applicant

*d/* No. 1 keeping in view his post and the relevant rules.

The Applicant No.1 was admittedly a minor in February, 1996 when his father died. He could not have become a major before May, 2000 in any case. Thus the delay of over four years in securing an appointment was entirely beyond the control of the Applicant No.1. The Railways should have, in my view, provided for a relaxation in such genuine cases. I would urge them to consider issuing appropriate instructions in this regard as soon as possible. Meanwhile, they should, in accordance with the hope that I have raised, favour the applicants as best as they can to ensure that they are not put to undue hardship.

8. In the light of foregoing, the OA is dismissed. There shall be no order as to costs.



(S.A.T.Rizvi)  
Member(A)

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