CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.1369/99

Hon'ble Shri R.K. Ahooja, Memer(A)

New Dehi, this the 25th day of October, 1999

1. R.K. Relan

2. Tilak Raj Relan

3. Smt. Raj Relan

R/o 16/3, Railway Colony
Kishan Ganj, Delhi-7 ....Applicants

(By Advocate: Shri P.S. Mahendru)

Versus

Union of India & others Through

1. The Chairman
Railway Board
Ex-Officio Secretary
to the Govt. of India
Miistry of Railway
New Delhi

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

3. FA & Chief Accounts Officer
Northern Railway
Baroda House, New Delhi

4. Divisional Supdtg. Engineer/Estate
DRM Office, Northern Railway
State Entry Road, New Delhi

5. Estate Officer
Divisional Railway Manager's Office
New Delhi

6. Shri S.K. Aggarwal
Formerly Sr. DSTE/M
Northern Railway, New Delhi ....Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R

Applicant No.1, who retired from the service of the Railways on 30.9.1988, had been allotted a Type-II Railway quarter 16/3, Railway Colony, DKZ in November, 1959. According to Applicant No.1 it has been claimed that Applicant No.2, son of Appplicant No.1, and Applicant No.3,

wife of Applicant No.2, and daughter in law of Applicant No.1, were sharing accommodation at the time of the retirement of Applicant No.1. It is also claimed that Applicant No.2 was at that time in railway service and was also eligible for allotment of Type.II quarter and he was sharing accommodation with Applicant No.1. Application for regularisation of quarter was made in May, 1988. However, the application was not recommended by the competent authority Sr. DST(E), New Delhi on the ground that Applicant No.2 was holding a lien in Central Railway, Jhansi Division and had not till then been absorbed in the Northern Railway cadre. Thereupon, Applicant No.1 submits, that he was compelled to exercise his option in favour of his daughter in law, Applicant No.3, and her application in the prescribed proforma was forwarded on 10.8.88. The application was recommended to Respondent No.4 by her controlling officer. However, Respondent No.2 by letter dated 23.12.89 rejected the representation by Applicant No.3 on the ground that neither a married daughter nor the daughter in law were eligible for such regularisation. Thereafter Applicant No.1 took up the matter at various levels and further representations were also made by Applicant No.3. The grievance of the applicants is that in a number of similar cases, the respondent Railways regularised the accommodation in favour of daughters-in-law of the retiring railway servants but the same treatment was not given to Applicant No.3 and ultimately a notice, at the level of the Estate Officer, Respondent No.5, was issued under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Another representation, in reply, was made explaining that Applicant No.2 had since been absorbed in the Northern Railway on 20.11.1990 and that regulatisation of the accommodation should be made in his

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favour. However, this was also not agreed to by the impugned letter dated 1.1.98 (Annexure A-1). The aforesaid representation was rejected on the ground that Applicant No.2 had not obtained sharing permission, had drawn HRA till December, 1993 and had been absorbed only on 20.11.1990.

2. Applicant No.1 has also a grievance that the respondents have not released his DCRG till date and also that in December, 1998 they have also withheld post-retirement complimentary passes for railway travel. In the aforesaid background the applicants have come before the Tribunal seeking quashing of Annexure A-1 and a direction to respondents to regularise the accommodation in question in favour of Applicant No.2 or in the alternative to Applicant No.3., on payment of normal licence fee, and to release the withheld DCRG with interest at the rate of 18 per cent as well as two sets of passes for the year 1998.

3. The application is resisted by the respondents on the ground that the reliefs sought for by the applicants are barred by limitation as the applications made on behalf of Applicants 2 and 3 for regularisation of quarter in their favour had been rejected as far back as in 1988 and 1989 whereas the present O.A. has been filed in 1999. On merits they say that Applicant No.2 was not entitled for regularisation because no sharing permission had been sought or allowed, Applicant No.2 was not entitled for allotment of accommodation from the Northern Railway pool as he was on the strength of the Central Railways though temporarily posted at New Delhi, and also because he had been drawing HRA. In case of Applicant No.3 the

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respondents submit that her case is not covered by the rules as a daughter in law is not included in the list of eligible persons. They also state that under the Railway Board's instructions DCRG and railway passes are to be withheld till vacation of the railway accommodation by the retiring railway employee.

4. I have heard Shri P.S. Mahendru, learned counsel for the applicants and Shri R.L. Dhawan, learned counsel for the respondents at considerable length. Clearly the relief sought for in terms of regularisation of the quarter either in favour of Applicant No.2 or Applicant No.3 is time barred. The application by Applicant No.2 was admittedly made on 19.7.1988 but was not recommended. The case of the applicants is that thereafter further representations were made by Applicants No.1 and 2 and at various stages senior officers in the Railway Board directed that the same should re-examined, ultimately culminating in the rejection letter at Annexure A-1. Similarly, the application by Applicant No.3 dated 22.9.1988 was also rejected by letter dated 22.11.1989. As held in S.S.Rathore Vs. State of Madhya Pradesh (AIR 1990 SC 10), repeated representations do not enlarge the period of limitation. Even if the representations made to higher authorities were not decided within a period of six months, the cause of action would arise from the date of expiry of six months. The two letters of rejection having come in 1988 itself, no fresh cause arose on account of rejection of further representations filed on various occasions over the next 10 years. Therefore, the relief in respect of regularisation of the quarter in favour of Applicants 2 and 3 cannot be agitated at this late stage.

5. On merits also, the applicants do not have any case. Admittedly, Applicant No.2 was not on the strength of the Northern Railway at the time of retirement of Applicant No.1. Applicant No.1 as per his letter dated 18.8.1988, copy of which is enclosed at Annexure A-6 to the O.A., himself stated as follows:-

"That normally I would have sought transferrance of the allotment of the aforesaid Railway accommodation in the name my son Sh. Tilak Raj Relan, who is serving the Northern Railway Administration since Aug., 79 (for the last 9 years) as Telecom. Maintainer Gr.I (Rs.380-560(Rs.) at present working as TCM-I Auto Exchange Shakurbasti (Delhi) but he has not yet been finally absorbed into the Northern Railway regular cadre ever since his transfer from Jhansi Division of C.Rly to N.Rly in Aug'79 and the matter isunder reference with the Railway Board and it is doubtful if the matter would be finalised soon."

6. Clearly, Applicant No.1 was aware of the ineligiblity of Applicant No.2. Applicant No.2 was absorbed in Northern Railway on 20.11.1990, i.e. much after the retirement of Applicant No.1. Thus, apart from the statement of the respondents that Applicant No.2 was drawing HRA till 1993 and that they had never received a request for sharing of accommodation by Applicant No.2, the said Applicant No.2 was not eligible for Northern Railway accommodation on the date of retirement of Applicant No.1.

7. In the case of Applicant No.3 it was argued on behalf of the applicants by Shri Mahendru that Supreme Court decision in Savita Samvedi and another Vs. Union of India and others (1996(1) ATJ 620) clearly laid down that the retiring official's expectations cannot be dampened and his choice cannot be limited in respect of the child with whom he would like to stay after retirement and who will be prepared to maintain him. It was also observed by the Hon'ble Supreme Court that to disqualify a married daughter

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would be tentamount to gender discrimination. On that anology it was argued by Shri Mahendru that when the daughter in law is prepared to maintain the retiring railway employee and if the preference of the retiring employee is in favour of the daughter in law, then she could not be excluded from the list of eligible near relatives. More so, since the respondents themselves in various other cases had adopted the policy of granting regularisation in favour of the daughters in law of retiring railway employees.

8. In another O.A. No.1025/97 (Bankey Lal and Another Vs. The Chairman, Railway Board and Others, decided on 3.10.1997), I have held that a daughter in law is not eligible for such regularisation. Shri Mahendru pointed out that in a writ against this decision a stay had been granted by the High Court of Delhi and the writ admitted for hearing. However, till the writ is decided it may not be said that the order by the Tribunal in the said case has been set aside. In Bankey Lal's case (supra), it was held that the ratio of Savita Samvedi (supra) did not apply in respect of a daughter in law. That apart in the present case there are three other aspects requiring consideration. Firstly the choice of the retiring official is in favour of both the son and the daughter in law; secondly the daughter in law was not in the eligible category under the Railway Rules; and thirdly the case of regularisation relates to 1988, i.e. before the law laid down by the Supreme Court in Savita Samvedi (supra) which was decided on 30.1.1996.

9. For the aforesaid reasons the relief in regard to the regularisation in favour of either Applicant No.2 and Applicant No.3 is rejected both on grounds of limiation as well as merit.

10. I now come to the relief sought for in respect of release of DCRG and railway passes. Shri Mahendru has cited a number of judgments of this Tribunal that the full amount of gratuity cannot be withheld and the railway passes have to be releassed irrespective of whether the retired railway employee is in unauthorised or authorised occupation of railway accommodation. As rightly pointed out by Shri Dhawan for the respondents, the Supreme Court has already ruled on this point. In Rajpal Wahi Vs. Union of India and others, the Supreme Court have held that withholding payment DCRG as well as railway passes during the period of unauthorised occupation of the railway quarter in pursuance of Railway Board's instructions was in accordance with Railway Board's instructions and thus no interest on delayed payment was allowed. It was reiterated in Union of India Vs. Ujagarlal JT 1996(10) SC 42, wherein the orders of this Tribunal to allow interest on delayed payment of DCRG on account of unauthorised occupation of Railway quarter were set aside. Applicant No.1 is clearly an unauthorised occupation of the quarter after having retired way back in 1988 and his DCRG and railway passes have, therefore, been rightly withheld by the respondents.

11. In the light of the above discussion, finding no ground for intereference, the O.A. is dismissed. There will be no order as to costs.

(R.K. AHOOJA)
MEMBER (A)

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