

5

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A./~~XXX~~ No.1441 of 1995 Decided on: 13/2/96

Kumari Pooja Sharma & Another ....Applicant(s)

(By Shri B.S. Mainee Advocate)

Versus

The General Manager & Others ....Respondent(s)

(By Shri H.K. Gangwani Advocate)

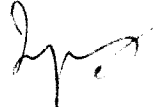
CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not? Yes

2. Whether to be circulated to the other Benches of the Tribunal? No

  
(K. MUTHUKUMAR)  
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1441 of 1995

New Delhi this the <sup>4</sup>13 day of March, 1996

**HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)**

1. Kumari Pooja Sharma
2. Smt. Rama Sharma ..Applicants  
(Both resident of Quarter No.182-  
B/4, Type I, Basant Lane,  
Paharganj, New Delhi.

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 Disivional Superintending Engineer,  
Northern Railway,  
DRM Office,  
New Delhi. ..Respondents

By Advocate Shri H.K. Gangwani

**ORDER**

**HON'BLE MR.K. MUTHUKUMAR**

h  
This application is directed against the letter of the respondent No.2 rejecting the request of the applicant for regularisation of the accommodation which was originally allotted in favour of her late father when he was in service on the ground that there was dealy in her appointment on compassionate grounds. The applicant is also aggrieved by the order of the respondents

dated 26.5.1995 Annexure A-2 treating her to be in unauthorised occupation of the authorised Railway quarter.

2. The brief facts in this case are that the applicant at the time of the death of her father was a minor. The applicant's father died on 12.1.1990 and the applicant had prayed for appointment on compassionate grounds on 1.2.1991 and she was advised that as she was underaged, she could apply after she ~~attain~~ the age of 18 years. Subsequently, her application for compassionate appointment was again considered by the respondents after she attained the age of 17 years and pass 10th class examination of the Central Board of Secondary Education, Delhi in the year 1992. Subsequently, as per averments made by the applicant she was given the compassionate appointment and after medical examination on 8.9.1993, she was sent for training in the post of Booking Clerk and after successful completion of training, she was posted as Booking Clerk at station Daya Basti and on request was subsequently transferred to New Delhi Railway Station in January, 1994. The applicant thereby applied for regularisation of the accommodation allotted to her late father when he was in service and held by the applicant all along. The respondents, however, did not regularise the accommodation and on the representation being rejected by the impugned letter dated 12.5.1995, she has approached this Tribunal with a prayer that the respondents be directed to regularise the said accommodation in her favour and also to direct the respondents to recover only normal licence fee.

h

.3.

3. The respondents have filed their reply. In the reply, the respondents contend that the applicant is not entitled for regularisation of quarter in as much as, the applicant has been appointed on 17.1.1994 whereas her late father died 4 years back, i.e., on 12.1.1990 and according to the rules prescribed for the purpose, the ward of the deceased Railway employee who is appointed within 12 months of the demise of the employee only can be considered for regularisation of the accommodation. The respondents rely on certain Railway Board Circulars which provide for regularisation of accommodation in favour of the eligible employee and in respect of the employees who are sought to be appointed on retirement or death of the Railway servant, the dependent employee of the Railway servant himself should have been appointed within a period of one year from the aforesaid date of retirement/ death.

4. I have heard the learned counsel for the parties and have perused the records.

5. The short question to be considered is whether the applicant would secure appointment on compassionate grounds almost after 4 years of the death of the Railway employee would be entitled to be considered for regularisation of the accommodation. In the instant case, the Railway employee died in January, 1990 the applicants had apparently been allowed to continue in that accommodation. Once the applicant, who was minor at the time of the death of the Railway employee, was subsequently appointed after a gap of 4 years on

h

compassionate grounds, has sought for regularisation of the accommodation in her favour.

6. The learned counsel for the applicant relies on the decision in Ms. Pinki Rani Vs. Union of India & Others, Vol.2 (1987) ATLT page 305. I have seen this order. In this case on the death of the Railway servant who was allotted a Railway quarter, the widow was given compassionate appointment as a temporary water woman but for some reasons, she could not be continued and absorbed permanently and was declared medically unfit and her daughter was thereafter, on attaining the majority age, was given compassionate appointment. In that case, there was no dispute that the applicant was eligible for Railway accommodation and that she had been sharing the accommodation with the deceased father for the prescribed period before his death. In the instant case, however, the Railway Servant expired on 12.1.1990 and the widow of the deceased Railway servant had requested for appointment of her daughter on 24.12.90 and it was found that she was not eligible for appointment as she was a minor. In terms of the Railway Board's instructions which has been extracted in the aforesaid judgment for regularisation of accommodation, two conditions have to be satisfied on the death of the Railway servant (i) his/her quarter may be allotted to his/her surviving son/daughter/husband on out of turn basis provided the said relation is eligible for Railway accommodation and (ii) is that he/she should have been sharing the accommodation with the deceased Railway servant for at least six months before the

h

date of retirement/death and, therefore, the circumstances in this case are not in paramateria with the aforesaid case. The learned counsel for the applicant has also relied on Smt. Indrasan Devi & Another Vs. U.O.I. & Others, ATJ 1995(2) 478. In this case, the appliant was given compassionate appointment within 15 months from the death of the deceased employee. Although the application was made and processed within a year of the death of the erstwhile Railway employee, actual appointment was given after 15 months and this case does not help the applicant. The fact remains that the applicant was not eligible for compassinate appointment at the time of the death of the applicant and the fact that somehow the widow, was allowed to retain the accommodation for so long does not give the applicant a right for out of <sup>turn</sup> allotment or regularisation in her name just because after some years she had become Railway servant and, therefore, had become eligible for Railway accommodation.

7. The whole object of the provision is for consideration for regularisation of accommmodation if the appointment takes place whether by way of compassionate appointment or otherwise of the dependent within 12 months from the date of retirement or death, as the case may be. The period of 12 months is provided perhaps because that under normal circumstances, in the extreme case of death of an employee the normal period of retention of the accommodation is also 12 months and within the

h

period of retention allowed if a dependent seeks and gets employment, this accommodation could be regularised on ad hoc out of turn basis in favour of the dependent. This facility cannot be overstretched as otherwise such out of turn allotments for regularisation without any time limit for seeking employment under the Railways of the deceased Government servant is likely to prejudice and affect the interest of a large number of Railway employees waiting for normal allotment under the rules.

8. In the conspectus of the above discussion, this application is devoid of merit and is dismissed. No costs.

  
(K. MUTHUKUMAR)  
MEMBER (A)

RKS