

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2318/1995

New Delhi this the 1st Day of July 1996.

Hon'ble Shri S.R.Adige, Member (A)

Shri Ashok Kumar Bhalla,
S/o Shri Balbir Raj Bhalla,
Casual Labour Luggage Porter,
Under Station Manager,
Railway Station,
Delhi.

Applicant

(By Shri B.L. Madhok for
Shri B.S. Mainee)

Versus

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,
D.R.M. Office,
New Delhi

Respondents

(By Shri P.S. Mahendru)

O R D E R

By Hon'ble Shri S.R. Adige, Member (A)

1. Heard.
2. Admittedly, consequent to the pre-mature retirement on medical grounds of Shri Balbir Raj Bhalla, Driver Grade 'B' , Northern Railway on 25.2.1987 his elder son Shri Bharat Bhushan was granted compassionate appointment on 15.3.1988 and quarter No. 38/6 Railway Colony, Kishan Ganj, Delhi, which had been allotted to Shri Balbir Raj Bhalla

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was regularised in the name of Bharat Bhushan. Unfortunately, Bharat Bhushan met with a train accident and died on 21.3.1990, upon which on 26.3.1990 Shri Bhalla prayed for grant of compassionate appointment to his next son Shri Ashok Kumar Bhalla, the present applicant, who contends that after protracted correspondence the respondents initially offered him appointment as Gateman (Rs.775-1025) vide letter dated 31.1.1994 (Annexure A-7), but as he was not declared medically fit for that post, the respondents offered him the post of Luggage Porter (Rs. 750-940) vide letter dated 21.2.1995 (Annexure A/8) but thereafter by letter dated 30.3.1995 (Annexure A-1) they have arbitrarily and unilaterally modified the letter dated 21.2.1995 to that of a fresh casual labourer (Rs.750-940) on daily wages for 120 days followed by temporary status. The respondents have also rejected the applicant's prayer for regularisation of Quarter No. 38/6, Railway Colony, Kishan Ganj, Delhi in his name vide his letter dated 30.10.1995 (Annexure A-2) on the ground that he was appointed as a fresh casual labourer and as a brother, he is not entitled to regularisation of the premises in question as per rules.

3. In so far as the applicant's prayer for grant of suitable employment on compassionate ground as a regular employee (and not as a casual labourer) is concerned, it is to be noted that consequent to the

retirement of Shri B.R. Bhalla, on medical grounds, on 25.2.1987 his elder son was appointed on compassionate ground on 15.3.1988. The applicant has not produced any material to show that consequent upon Bharat Bhushan's unfortunate demise on 26.3.1990, the respondents were required to grant compassionate appointment to another member of the family. It is true that the respondents had initially offered the applicant the post of Luggage Porter vide letter dated 21.2.1995 (Anneuxre A-8) but there is nothing in law which prevented them from modifying that order by subsequent letter dated 30.3.1995 and appointing the applicant as a daily rated casual labourer, with temporary status accruing to him on the expiry of 120 days. The applicant accepted that offer, and as 120 days w.e.f. 30.3.1995 has expired, the status of the applicant now is that of a temporary Class IV employee with all the rights and privileges accruing to him as such. It will now be open to the applicant to represent to the concerned authorities for regularisation and on receipt of the same, and in the background of the availability of regular vacancies, the applicant's seniority and his eligibility for regularisation, the respondents should dispose of that representation expeditiously in accordance with the rules and instructions on the subject.

4. As regards regularisation of Quarter No.38/6, Railway Colony, Kishan Ganj, Delhi

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in the name of the applicant, neither side have furnished material to indicate what type of accommodation that quarter falls into and whether the applicant by virtue of being a temporary Class IV employee in the scale of Rs.750-940 is eligible for out-of-turn regularisation of that quarter. The respondents have taken the stand in para 4.28 of their reply that as a brother he is not entitled as per extant rules for regularisation/allotment of the premises in question and this stand has not been ~~satisfactorily~~ ^{satisfactorily} rebutted by the applicant in his rejoinder or during hearing.

5. As the applicant has failed to establish that consequent upon the demise of his brother and his own appointment as a daily rated casual labourer to whom temporary status accrued after 120 days service, he is entitled to out-of-turn regularisation/allotment of Quarter No.38/6 Railway Colony, Kishan Ganj, Delhi, this part of the prayer cannot be acceded to.

6. This Original Application is disposed of as above. Interim orders are vacated. No costs.

Adige
(S.R. ADIGE)
MEMBER (A)

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