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Central Administrative Tribunal  
Principal Bench, New Delhi  
...

O.A. No. 596/95

New Delhi, this the 10th day of July, 1995.

Hon'ble Shri J.P. Sharma, Member (J)

1. Mohinder Pal  
s/o Sh. Mansa Lal  
Aged about 33 years,  
R/o Q.No. 7/1, Railway Colony,  
Sarojini Nagar, New Delhi.

and employed as

Fitter (at present) in Northern Railway  
(Carriage & Wagon Supplies),  
Delhi Main, New Delhi.

2. Babbar  
s/o Shri Momola  
R/o Q. No. 7/1 Sarojini Nagar,  
New Delhi.

... Applicants

(By Shri P.C. Shukla, Advocate)

Versus

Union of India through:

1. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Superintending Engineer (Estates),  
Divisional Railway Manager's Office,  
Northern Railway,  
New Delhi.

.. .. Respondents

(Shri K.K. Patel, Advocate)

ORDER ( ORAL )

Hon. Shri J.P. Sharma, Member (J)

Applicant no. 1 joined the Railways as a Safaiwala  
and has since been promoted as a Fitter in Northern  
Railway (C & W Supplies). Applicant No. 2 Babbar, the

father in law of the applicant no. 1, who was allotted while in service quarter No. 7/1 Railway Colony, Sarojini Nagar, New Delhi and he has since retired w.e.f. 31st July, 1987. Applicant no. 1 was granted sharing permission with his father-in-law aforesaid by an order dated 23.4.1987. Both the applicants continued to live together with impunity and when respondents wanted to take the possession of the said premises, O.A. No. 299/93 was filed in the Principal Bench which was decided on 5th November, 1993 whereby six months concession was given not to evict the petitioner of that case, who was the present applicant, from the said quarter for a period of six months. It is also written that it will not act as a precedent. It appears that another application No. 1045/94 was filed by the applicant no. 1 and his father-in-law which was disposed of by the Principal Bench by the order dated 7th October, 1994 whereby it was further considered as a concession to the petitioners not to be evicted for further period of four months from the said premises. The present application was filed by the applicants on 20th March, 1995 and by the order dated 31st March, 1995 again an injunction was granted. When the correct facts were pointed out by the respondents' counsel Shri K.K. Patel, by the order dated 16/5/1995 that interim order was vacated. The respondents have contested this application opposing the grant of relief prayed for by the applicants for allotment or

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regularisation of the government accommodation i.e. quarter No. 7/1, Railway Colony, Sarojini Nagar, New Delhi to Shri Babbar applicant no. 2, the father in law of applicant no. 1. Respondents in their counter reply has taken a consistent stand that the applicants have no case at all and that the continuous unauthorised occupation after retirement of applicant no. 2 w. e. f. 31/7/1987 has accumulated penal amount of rent which is yet to be recovered. In any case, the stand is that the Premises cannot be allotted to the applicant no. 1 and that out of turn allotment cannot be allowed to applicant no. 1. The applicants have unsuccessfully filed on earlier two occasions for the same relief, applications under section 19 which have been rejected giving certain concession of retention of the premises for few months and even there after the premises was not vacated and the applicants continued to occupy the same in an unauthorised manner. With regard to the stand of the applicant in para No. 4.14 that persons junior to the applicant who were appointed much after the year 1975, the year of appointment of the applicant, in subsequent years i.e. 1977, 1978, 1979 & 1981 have been allotted quarters, the respondents in the reply stated that the date of appointment is not a criterion to judge the seniority at the station but it is from the date of registration which is material and denied the contention raised in para 4.14.

In reply to para No. 4.14 of the counter, the applicant in the rejoinder, has stated that he has also filed applications earlier and he filed a subsequent application in the year 1983 when the earlier applications filed by him were not traceable. A further list of certain persons junior to the applicant has been given by the applicant in the rejoinder in para 4.15.

Heard the learned counsel Shri F.C. Shukla counsel for the applicant and Shri K.K. Patel counsel for the respondents. The stand of the applicant that the quarter <sup>vacated</sup> ~~vacated~~ by the father-in-law Shri Babbar i.e. applicant no.2 be regularised in his name is totally without basis. It is needless to discuss this matter further because son-in-law cannot be a member of the family of the father-in-law nor he as such mentioned in the various welfare circulars issued by the Railway Board for out of turn allotment commencing from 1982 till 1991. The respondents counsel pointed out that the sharing permission was granted only in April, 1987 and the applicant continues to draw H.R.A. upto that period. This position is not wholly relevant from the record and irrespective of the fact whether the son-in-law was living with the father-in-law would not justify out of turn allotment dehors the circulars of the Railway Board.

The learned counsel for the applicant pointed out that the applicant entered in the service in 1975 and those who are appointed on much later years have been accommodated

by allotment on regular basis certain quarters while the applicant has arbitrarily been ignored. This point needs a probe but the pleadings of the applicant do not show the priority number for allotment, that only shows the year of appointment in the service as Class-IV employees. Thus, the pleadings in this respect are vague and do not make out a case of any sort of arbitrary action on the part of the respondents. The stand taken in the rejoinder that the application moved by the applicant earlier was not retained by the office and a second application in 1983 was given by the applicant, may be a true state-of-affairs but in legal terminology it is after thought. It is the basis which could have motivated the applicant to put his claim that he was duly registered in the roster of the year 1975 or 1976. He has been registered in the year 1983. The learned counsel for the respondents pointed out that priority number of the applicant is 437 and as per priority number he will be allotted the accommodation as per rules. The applicant in the rejoinder has given certain priority numbers which are much below the registration of the applicant at serial numbers 464, 467, and 468. It is said by the respondents' counsel that this point has already been considered in the earlier decision given by the Principal Bench. This contention of the respondents is confirmed when we go through para 4 of the

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judgement dated 7th October, 1994 in O.A. No. 1045/94.

The applicant's counsel rightly pointed out that the applicant is of the lower strata of the Society and is not fairly educated, so the lenient and sympathetic view should have been taken by the respondents. It is said that every time since 1983 it is stated that the turn of the applicant does not reach though what to say of months, years have passed since 1983. It is a fact. It is expected by the respondents to deal with their own record fairly, justly and not to create the disappointment in the staff. The figure was there in 1994, there must have been some allotment after vacation of the quarter and priority number of the applicant (no. 437) could not reach, may be somewhat correct but appears to be untrue. The learned counsel for the applicant pointed out that applicant has since vacated the quarter.

Though the applicant has not made out a case for regularisation of quarter or out of turn allotment, and the O.A. does not merit for grant of any of the reliefs prayed for by the applicant. However, the respondents should consider the applicant to allot an eligible type of quarter as early as possible as per his priority in strict order of seniority as in the roster system, if there is any reservation that should also be considered by the respondents. Cost on parties.

*J. P. Sharma*

( J.P. SHARMA )  
MEMBER ( J )

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