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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A.NO.799/95

New Delhi, this the 22nd day of November, 1995

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

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

1. Mrs. Iris William Chand
w/o Shri William Chand
retired ECG Technician,
M.R. Central Hospital,
r/o 152/9, Railway Colony,
Minto Bridge, New Delhi.

2. Mr. Solomon
s/o Mr. William Chand
working as Hospital Attendant
Central Hospital,
Northern Railway, New Delhi
r/o 152/9, Railway Colony,
Minto Bridge, New Delhi.

... Applicants

By Advocate: Shri S.K. Sawhney

Vs.

1. Union of India
through
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Divisional Supdtg. Engineer (Estate),
Northern Railway,
D.R.M. office,
New Delhi.

... Respondents

By Advocate: Shri K.K. Patel

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

This application has been filed in respect of
regularisation of Railway Quarter No.152/9, Railway
Colony, Minto Bridge, New Delhi in the name of Applicant

18/ No.2 on retirement of his mother, Applicant No.1 on 30.11.1993

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The application for regularisation has been rejected by the impugned order dated 26.10.1994 (Annexure 1).

2. The applicants submit that the conditions prescribed in R.B.E. No.7/90 dated 15.1.1990 have been fulfilled. Shortly stated the facts of the case are that the applicant No.1, who is the mother of Applicant No.2 has retired as ECG Technician from the Northern Railway Central Hospital on 30.11.1993. The applicant No.2 has been appointed as Hospital Attendant on 2.2.1984 and is continuing with the respondents. Applicant No.1 was allotted the said railway quarter. According to Applicant No.2 he has started living with the mother in the railway quarter w.e.f. March, 1992 after applying for sharing accommodation vide application dated 31.1.1992 which, however, was not replied to. He has enclosed the certificate from the DMU, Northern Railway Central Hospital dated 19.6.1995 to the effect that Applicant No.2 is working in the Hospital since 2.2.1984 and he is not drawing H.R.A. from March 1992 onwards.

Circular

3. Para 2 of the R.B.E./No.7/90 reads as follows:-

"2. When a Railway employee who has been allotted railway accommodation retires from service or dies while in service, his/her son, daughter, wife, husband or father may be allotted railway accommodation on out of turn basis provided that the said relation was a railway employee eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway employee for at least six months before the date of retirement or death and had not claimed any HRA during the period. The same residence might be regularised in the name of the eligible relation if/she was eligible for a residence of that type or higher type. In other cases a residence of the entitled type or type next below is to be allotted."

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The applicants state that they have already submitted the Ration Card dated 30.9.1992 (Annex. A2E) to the competent authority which shows that Applicant No.2 was residing with the mother and father at Quarter No.152/9, Railway Colony behind Shanker Market, which is stated to be the same quarter which is allotted to Applicant No.1.

4. Shri S.K. Sawhney, learned counsel for the applicants submits that in view of the evidence, namely the ration card issued in 1992, coupled with the fact that payment of H.R.A. has been stopped to the Applicant No.2 from March 1992 and the application submitted on 30.1.1992 for sharing permission, it conclusively shows that all the conditions referred to in this circular are fulfilled. However, he further submits that as per the circular of 15.1.1990 no such permission for sharing is required, but only the fact that applicant was sharing the accommodation has to be shown.

5. The respondents have denied the above averments. Shri K.K. Patel, learned counsel for the respondents submits that Applicant No.1 had applied for sharing permission only on 28.6.1993 i.e. less than six months before the retirement of Applicant No.1 on 30.11.1993. This request had already been turned down. According to the respondents, therefore, as per the extant rules since Applicant No.2 had not been granted the sharing permission and has, in fact, not been living with

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Applicant No.1 for the prescribed period of six months prior to the date of her retirement, he was not entitled for regularisation of the said railway quarter in his name.

6. We have heard the learned counsel for both the parties and perused the record.

7. As per the RBE Circular No.7/90 three conditions are required to be fulfilled before the regularisation of the quarter namely (i) that the said relation i.e. son, daughter, wife, husband or father was a railway employee eligible for railway accommodation; (ii) that he has been sharing the accommodation with the retiree railway employee for at least six months before the date of retirement and (iii) that he has not claimed HRA during the period of six months. In this case conditions 1 and 3 are admittedly fulfilled by Applicant No.2. The only dispute is with regard to fulfilment of condition number (ii) above.

8. The applicants submit that they had in fact submitted the ration card dated 30.9.1992 referred to above which shows that Applicant No.2 was living with his mother. The learned counsel for the respondents has submitted file number 159 E0/54/914 of 1994 for our perusal in which the question of regularisation of the quarter had been considered by the competent authority. Respondents have admitted that Applicant No.2 was not drawing

HRA w.e.f. March, 1992. It is seen from the notes that in other

Cases ration card has been taken as the most authentic document in respect of proof of staying with the allottee/retiree. However, it appears that the competent authority has come to the conclusion that no regularisation can be allowed in this case because Applicant No.2 had submitted the ration card of living separately from 2.2.1984 to 28.5.1990. This period obviously is not the relevant period in question under the RBE Circular No.7/90 dated 15.1.1990, No reference has been made to the ration card dated 30.9.1992 (Annex. A2E) and what the competent authority had to determine was whether Applicant No.2 was in fact residing with Applicant No.1 for six months prior to the date of her retirement which it has failed to do. We also note that the impugned Annexure A-1 order dated 26.10.1994 is not a speaking order and no reasons have been given for rejecting the regularisation. The learned counsel for the respondents also relies on the judgement of the Full Bench decision in J.A.No. 2684/93 - Liaquat Ali and ors Vs. UOI that the applicant has no enforceable right for regularisation of the quarter. But that does not mean that if the applicants satisfy the conditions prescribed in the relevant circular for regularisation, respondents can arbitrarily deny it to them.

9. If as stated above, the competent authority has been accepting documentary proof of residence by way of ration cards in other cases, there is no reason why the same ought not to have

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been accepted by the competent authority in this case also. Therefore, we are of the view that the competent authority ought to have considered the relevant ration card of 1992 coupled with the fact that the HRA paid to Applicant No.2 had been withdrawn from March 1992 to determine the claim of the applicant for regularisation of the quarter in terms of the RBE Circular No.7/90.

10. In the result this application succeeds. The impugned Annexure A-1 order is quashed and set aside. The matter is remitted to Respondent No.2 i.e. the Divisional Superintending Engineer(Estate), Northern Railway, DRM Office, New Delhi to consider the matter in the light of the above observations and pass a reasoned and speaking order within a period of one month from the date of receipt of copy of this order. Till then the respondents are restrained from taking any action to evict the applicants from the quarter. No order as to costs.

R.K. Ahuja
(R.K. AHUJA)
MEMBER(A)

Lakshmi Swaminathan
(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

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