

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.NO.229/96

HON'BLE SHRI R.K.AHOOJA, MEMBER(A)

New Delhi, this 26<sup>th</sup> day of September, 1996.

1. Smt. Balbiri Rana  
Widow of Late Shri D.S.Rana  
Ex-Chief Inspector of Works  
Horticulture  
R/o 33/15, Railway Colony  
Kishan Ganj  
D E L H I.

2. Shri Shiv Kumar Rana  
s/o Late Shri D.S.Rana  
Working as Ticket Collector  
Northern Railway  
Railway Station  
New Delhi  
R/o 33/15, Railway Colony  
Kishan Ganj  
DELHI.

... Applicants

(By Shri S.K.Sawhney, Advocate)

Vs.

1. Union of India, through  
General Manager  
Northern Railway  
Baroda House  
NEW DELHI.

2. Divisional Railway Manager  
Northern Railway  
DRM Office  
Chelmsford Road  
NEW DELHI.

3. Divisional Superintending Engineer  
Estate - DRM Office  
Northern Railway  
NEW DELHI.

... Respondents

Shri D.S.Mahendru, proxy of  
(By Shri P.S.Mahendru, Advocate)

O R D E R

Shri R.K.Ahooja, Member(A)

The applicants are respectively the Widow and Son of a deceased Government servant who died in harness, <sup>who infright or</sup> The respondents' order A1 calling upon

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(b)

applicant No.1 to make payment of penal rent at the rate of Rs.4736/- for the period 26.4.1994 to 12.12.1994 for unauthorised occupation of quarter allotted to the deceased Government servant.

2. The original allottee, Shri D.S.Rana who was working as Chief Inspector of Works (Horticulture), Northern Railway, Nizamuddin died on 26.4.1993. His son, Applicant No.2 was appointed on compassionate ground as Ticket Collector on 11.2.1994 at New Delhi Railway Station. On his appointment, Applicant No.2 sought regularisation of the Railway Quarter in his name. Since the quarter allotted to his father was of category IV, Applicant No.2 was allotted a quarter of his entitlement category II vide letter dated 08.11.1994 (Annexure A3). The applicants case is that in terms of Rule-1713 of Indian Railway Establishment Manual, Part-2 (Annexure A6) and Railway Board's letters A4 and A5, Applicant No.2 was entitled to the regularisation of the allotment from the date of his appointment. Therefore, the date of appointment being 11th February, 1994 there was no liability to pay penal rent from 26.4.1994 to 12.12.1994 as demanded by the respondents.

3. The respondents in their reply submitted that the quarter allotted to the deceased Government

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servant being of the higher category, the same could not be regularised in favour of the applicant No.2 and hence the Applicant No.2 was liable to pay penal rent on the expiry of the period of one year after the death of the original allottee.

4. The applicants rely on the provision of Railway Board's instructions (Annexure A4) which states that when a Railway employee 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 and had been sharing accommodation with the retiring or deceased railway employee for at least six months before the date of retirement or death. Note:2 thereunder states that "the concession of adhoc allotment would not be available in the case of a dependent who secures employment in the railway after the date of retirement of parent or during the period of re-employment". Note:6 states that "the date of regularisation should be from the date of cancellation in case the eligible dependent is already in railway service and is entitled for regularisation and not from the date of issue of the orders, which was the practice being followed earlier". Instructions at A5 further provides

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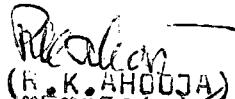
(3)

that regularisation will be from the date of reporting for training in the case of appointment even on the compassionate grounds. This makes it clear that regularisation was possible only if the ward is eligible for that Type or an higher Type. The benefit of these instructions regarding regularisation from the date of appointment, even if that be the date of his reporting for training arises only when the ward of deceased Government servant is entitled for the same category of accommodation. In the present case, the Applicant No.2 though given compassionate appointment within one year of the death of his father, was nevertheless not entitled to the category-IV which was allotted to his father. There was thus no question of regularisation in such a case. The rules confer no entitlement on him to hold the higher category of accommodation, till such time that the accommodation of entitled category is allotted. Once, the one year period is over, and the allotment is cancelled, the further occupation of the higher category of accommodation becomes unauthorised with its attendant consequences of payment of penal rent. The respondents were therefore, perfectly justified in issuing the A1 order (impugned order) for payment of the market rent.

5. As for the other reliefs asked for by the applicants, since they are not entitled to the main relief sought for by them, they are therefore, also not entitled to the relief that the DCRG should be paid to them only after recovery of the normal rent.

No order as to costs.

/rao/

  
(R.K. AHUJA)  
MEMBER(A)