

Central Administrative Tribunal  
Principal Bench: New Delhi

OA 2279/96

New Delhi this the 7th day of October 1997.

Hon'ble Mr N. Sahu, Member (A)

Mr Ganesh Kumar Kaushik  
S/o Late Shyam Sunder Kaushik  
Khallasi  
Under I.O.W.(G)  
Northern Railway  
Baroda House  
New Delhi.

...Applicant.

(By advocate: Mr B.S.Mainee)

Versus

Union of India through

1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Chief Communication Engineer  
Northern Railway  
Baroda House  
New Delhi.
3. The Divisional Supdtg. Engineer(Estate)  
Northern Railway  
D.R.M. Office  
State Entry Road  
New Delhi.

...Respondents.

(By advocate: Mr P.S.Mahendru)

O R D E R (oral)

Hon'ble Mr N. Sahu, Member (A)

In this case, the applicant is aggrieved against order No.159-EO/54/481/93 dated 30.7.96 passed by the Divisional Supdg. Engineer (Estate), Northern Railway, New Delhi. In this order, the competent authority declined to regularise the Railway Quarter No. 167/6 Kishan Ganj, Delhi in the name of Mr Ganesh Kumar Kaushik, Khallasi.

16

2. The brief facts are that on 6.3.1988, the applicant's father Mr Shyam Sunder Kaushik died in harness. At that time, the applicant was a minor, his date of birth being 30.11.1973 and he would attain majority on 30.11.1991. The mother of the applicant, Smt Daya applied for compassionate appointment in Group-D category on 20.4.88 but later on she withdrew her request in favour of the applicant, due to her illness. The applicant, after attaining majority, was considered for appointment on the written request of his mother on 4.5.92. The approval of the appointment was conveyed by the General Manager on 15.9.92. There was a panel of interview on 30.10.92 and thereafter he was appointed as Khallasi under I.O.W(G), Northern Railway, Baroda House, New Delhi on 28.1.93. Thus the time gap between the death of his father and his appointment on compassionate grounds is 4 years and 10 months, out of which 3 years and 8 months are attributable to the under-age of the applicant. The claim for regularisation was rejected on two grounds. First of all, the applicant's appointment being in Group-D, he would not be entitled to the Railway Quarter occupied by his late father and, secondly the delay in compassionate appointment was on account of the employee and not due to administrative reasons.

3. Learned counsel Mr B.S.Mainee submits that the delay was not on account of the employee's fault. The delay should be reckoned from the date he completed 18 years.

4. I have carefully considered the submissions of both the counsels. I am of the view that the impugned order dated 30.7.96 (Annexure-1) does not call for any interference. Ministry of Urban

12

Development's Allotment of Accommodation Rules provide that regularisation of quarter on compassionate grounds should be completed within a period of one year from the date of death of the dependent's father. In Kehar Singh's case which is part of Shiv Sagar Tiwari's case (1997 (1) SCC 444, the Supreme Court held that there can be no relaxation in this time period. They even directed the Solicitor General to bring to the notice other stray cases wherein such delay had been condoned but the Supreme Court wanted to review such cases and bring it in line with Kehar Singh's case. Later on, the discretion given to relax the period of one year was curtailed to one month after the period of one year. Learned counsel for the respondents Mr P.S. Mahendru submits that the rule of one year is very much applicable to the Railways also in the case of regularisation of allotment to a dependent relative. That being the case and as the applicant admittedly cannot claim the quarter which his father occupied and in any case even if the allotment was made, it should have been a quarter of lower entitlement, the relief prayed for for regularisation of the quarter allotted to the late father cannot be allowed.

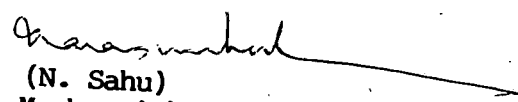
5. The alternative submission of Shri Mainee is that the applicant may be allotted a quarter of his entitlement in accordance with rules. For this purpose, he cited the Supreme Court's decision in Phool Wati's case (1991 Supp.(2) SCC P.689) wherein on compassionate appointment, the Supreme Court also directed grant of a quarter. But the facts in Phool Wati's case are that the Government was remiss in contesting the issue of eligibility on legal grounds and concentrated on the issue of eviction from Government quarters. Several opportunities were given by the Court to the Government for a reply which was not

18

availed of on the question of compassionate appointment. The reliefs of appointment and quarter were allowed in the above background. The facts of the present case are different. The respondents have disposed of the claim as early as possible and conferred on the applicant a Group-D appointment on compassionate grounds. Allotment/Regularisation of a quarter is governed by different rules. However, the respondents are directed to consider the case of allotment of a quarter to the applicant of his entitlement in accordance with rules within a period of 4 months from the date of receipt of a copy of this order.

6. The next relief prayed for is normal rent for the period from the date of death of the applicant's father till the date of regularisation of the quarter. It is not possible to consider this claim. Admittedly, the applicant is not entitled to the quarter. He should have vacated this quarter to which he was in any case not entitled. Respondents shall consider levying rent in accordance with the rules and no direction on the lines prayed for can be allowed.

7. In the result, OA is disposed of as above. No costs.

  
(N. Sahu)  
Member (A)

aa.