

Central Administrative Tribunal, Principal Bench

R.A.No.134/97
M.A.No.1276/97 &
M.A.No.1277/97 in
O.A.No.1923/96

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

New Delhi, this 30th day of June, 1997

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1. Mr. Iris William Chand
w/o Shri William Chand
Retd. as ECG Technician
Northern Railway
Central Hospital
New Delhi.
 2. Mr. Soloman
s/o Shri William Chand
working as Hospital Attendant
Central Hospital
Northern Railway
New Delhi.
r/o 152/9, Railway Colony
Minto Bridge
New Delhi.
- ... Applicants
Vs.
1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
 2. Divisional Suptd. Engineer(Estate)
Northern Railway
D.R.M's Office
New Delhi.
- ... Respondents

O R D E R (By Circulation)

This RA has been filed by the Union of India (Original Respondents) seeking review of the order dated 2.4.1997 in OA No.1923/96 wherein a direction was given to the respondents to regularise the railway quarter in the name of Applicant No.2 with effect from the date of superannuation of his mother, Applicant No.1.

2. The afforesaid OA No.1923/96 was in fact a second round of litigation. In the first round the applicant had filed OA No.799/95 against the order of the respondents rejecting the application for regularisation of the quarter. That OA was allowed and the impugned order was set-aside and the matter was remitted to the

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Divisional Supdt. Engineer(Estate), Respondent No.2 to consider the matter in the light of the observations of the Judgment/order and to pass a reasoned and speaking order within a period of one month. The respondents in compliance to the directions reviewed the request of the applicant and had then again refused it which lead to the OA No.1923/96. The same was disposed of with directions to the respondents to regularise the allotment of the quarter in favour of Applicant No.2.

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3. The grounds taken by the review petitioners are that there has been a patent error inasmuch as the Tribunal did not see the difference between the terms "residing" and "sharing" of the accommodation. It has been submitted that this difference has been noticed in the earlier judgment of the Tribunal in OA No.707/92 and 898/95 and the finding in the impugned order that Applicant No.2 had been residing with Applicant No.1 for six months prior to the retirement of Applicant No.1 did not mean that he was also 'sharing' the accommodation; that would imply a permission to share which in fact had been ⁿ~~not~~ refused. It has also been submitted by the Review Petitioner that the requirement of Note 8, Para 3 of RBE Circular No.7/90 has been over-looked. This requires that "if an employee dependent is already drawing HRA and stops drawing the amount six months before the retirement of the employee concerned the dependent is not eligible for allotment/regularisation of quarter".

4. I have carefully considered the above mentioned reasons adduced by the review petitioner. However, I am unable to agree that a review is warranted. As already

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stated the impugned judgment in OA No.1923/96 follows the orders of this Tribunal in OA No.799/95. The directions in the earlier OA No.799/95 were that the request for regularisation would be disposed of by the respondents by a reasoned and speaking order. This order dated 13.02.1996 nowhere speaks of the additional ground mentioned now, namely, that a person who is drawing HRA cannot thereafter become eligible by giving up the HRA six months prior to the date of superannuation of the original allottee. When the three conditions for regularisation had been cited in OA No.799/95 no review was sought on the ground that this additional condition had not been mentioned. No explanation has been given in the review petition as to why this additional condition could not be brought to the notice of the Tribunal either by way of an averment in their counter or at the time of submissions of the arguments.

5. In the light of the above discussion, I conclude that the impugned order requires no review since it was entirely ~~based~~ on the available pleadings and the decision of this Tribunal in the earlier OA No.799/95 against which no review was sought.

6. For the above cited reasons, the RA is without merit and is accordingly dismissed.

7. MA No.1276/97 and MA No.1277/97 are also stands dismissed.


(R.K. AHOOJA)
MEMBER(A)

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