

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

18-862

198

DATE OF DECISION 25/11/97

S. D. D. & others

Applicant (s)

S. D. D. & others

Advocate for the Applicant (s)

Versus

(1 or 2 others)

Respondent (s)

S. D. D. & others

Advocate for the Respondent (s)

PROGRAM :

The Hon'ble Mr. Shri R. K. Ahuja, Member (A)

The Hon'ble Mr.

Whether Reporters of local papers may be allowed to see the Judgement ? Yes / No

To be referred to the Reporter or not ? Yes

(R. K. AHOOJA)
Member (A)

Central Administrative Tribunal
Principal Bench

O.A.No.1828/97

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

New Delhi, this the 25 day of November, 1997

1. Shri Om Prakash
s/o Shri Rattanlal
r/o Railway Quarter No.T-30/26
Railway Colony
Minto Bridge
New Delhi.
2. Shri Rattan Lal
Ex-Railway Employee
working as Bill Poster in the office
of P.R.O./S.I.P.D.,
C.A. Office in D.C.R:Building
New Delhi.
r/o Railway Quarter No.T-30/26
Railway Colony
Minto Bridge
New Delhi.

... Applicants

(By Shri K.K.Patel, Advocate)

Vs.

1. Union of India through
General Manager(Engg.)
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi.
3. Divisional Superintending Engineer (Estate)
Northern Railway
State Entry Road
DRM's Office
New Delhi.

... Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R

Applicant No.2, who is the father of Applicant No.1, retired from Railway service on 31.3.1996. During his service he was allotted a Railway Quarter No.T-30/26, Railway Colony, Minto Bridge, New Delhi. On retirement Applicant No.2 was allowed to retain the said quarter from 1.4.1996 to 31.7.1996 as per rules on normal licence fee. Thereafter, Applicant No.2 made a representation dated 1.8.1996 seeking permission to retain the

8
said quarter for another six months on medical grounds. However, no orders were communicated on this representation; on the other hand, the impugned orders dated 12.6.1997, 25.6.1997 were issued, without show cause notice, regarding unauthorised occupation of the quarter and imposing the penal rent. The grievance of the applicant is that Applicant No.1 had been selected for Government employment as far back as on 29.11.1985 but because of the resistance of the respondents he was given appointment only w.e.f. 10.3.1997. As such Applicant No.2 was entitled to the out of turn allotment by way of regularisation of the Quarter allotted to his father. The second grievance relates to Applicant No.2 in whose case the respondents have withheld the payment of the DCRG and also the complimentary railway passes.

2. The short ground taken by the respondents in the reply is that under the Rules Applicant No.1 having been appointed on 10.3.1997 is not eligible for out of turn allotment/regularisation of the Railway quarter under consideration as his father retired on superannuation on 31.3.1996. They further state that relaxation is also not possible in view of the Supreme Court judgment in the case of Shri Shiv Sagar Tiwari Vs. Union of India & Others, 1996(6) SCC 558, particularly in relaxation to one Kehar Singh. As regards the withholding of the complimentary passes as well as DCRG of the Applicant No.2 they submit that this is permissible under the Rules until the vacation of the quarter allotted to him during his service.

3. Shri K.K.Patel, learned counsel for the applicants has vehemently argued that Applicant No.1 would have obtained the eligibility for allotment as his selection was made way back in 1985 and the same was delayed by the respondents. He pointed out that Applicant No.1 was obliged to not only once but twice to

Dr

come before the Tribunal and it was on the directions of the Tribunal that the respondents finally gave him the appointment. He also relied on the Judgment of this Tribunal in OA No.1236/94, Shri G.Anjanavannan Vs. Union of India & Others, ATJ 1995(1) 569 decided on 8.3.1995 in which it was held that if the respondents had, considering the exceptional as well as humanitarian aspects accorded relaxation of the Rules, then the same could not be set-aside at the instance of the outside parties. He also cited the case of Srmt. Indrasan Devi & Anr. Vs. Union of India & Others, ATJ 1995(2) Page 478, decided on 23.8.1995. In that case it has held that within a stipulated time, it is not incumbent on the part of the dependent of the railway employee to obtain an appointment from the Railway authorities to get the retention/regularisation of the quarters. The learned counsel also submitted that as per Rule No.25(XXX)(i) to (iv) of allotment of Government residential general pool a dependent if he gets an employment in an eligible office within a period of 10 months after the retirement of the original allottee then his case can be considered for regularisation. Even though I agree with the learned counsel for the applicant that the appointment of Applicant No.1 may have been delayed for no fault on his part, and that to some extent, the respondents may have been responsible for the delay, nevertheless, in so far as out of turn allotment is concerned the same has to be considered entirely on the basis of the relevant rules. According to these rules admittedly the ward claiming such ad hoc allotment must have shared the accommodation for previous six months with the original allottee prior to his superannuation. In the present case, Applicant No.1 secured employment, admittedly, nearly a year after the retirement of his father. His case is not therefore covered under the rules. It has already been held by the Supreme Court in Liaquat Ali & Anr. etc. etc. Vs. Union of India & Others, 1994-96 CAT (Full Bench), New Delhi, Vol.4, Page 193,

Dr

- u -

10

O.A.No.2684/93, etc. decided on 29.5.1995 that allotment of a railway quarter cannot be claimed as a matter of right. It was further held that "under the circulars out of turn allottees constitute a distinct class. Since they may take precedence over others who have been waiting for allotment for a long time, it is necessary that their claims are considered strictly in accordance with the circulars and not in a manner which enlarges the scope of the circulars."

4. It is not necessary therefore for me to go into the reasons for the delay in appointing Applicant No.1 nor it would be possible for me to consider relief to Applicant No.1 on the basis that Applicant No.1 could have been obtained such an appointment at an earlier date. As he does not fall within the four walls of the Rules, his case will have to be rejected.

5. Applicant No.2 has already retired from service and the period of four months for which permission for staying the allotted house has also expired. Consequently he became an unauthorised allotment after expiry of four months of his retirement. In terms of the Railway rules therefore he is liable to pay the penal rent. His DCRG and complimentary passes would also be withheld as per the Railway rules till the vacation of the quarter.

6. In view of the above discussion, the OA is therefore dismissed. No costs.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

/rao/