

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-404/97

New Delhi this the 8th day of September, 1997.

Hon'ble Sh. S.P. Biswas, Member(A)

Shri Jhinku
S/o late Sh. Chhaboo,
R/o E-3/8, Railway Colony,
Brar Square, New Delhi.

Smt. Kalana,
W/o late Shri Chhaboo,
R/o E-3/8, Railway Colony,
Brar Square, New Delhi.

..... Applicants

(through Shri S.K. Sawhney, advocate)

versus

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

2. Divl. Railway Manager,
Northern Railway,
DRM Office,
New Delhi.

3. Divl. Supdtg. Engineer(Estate),
Northern Railway,
DRM Office, New Delhi.

..... Respondents

(through Shri P.S. Mahendru, advocate)

ORDER(ORAL)

The short question for determination is whether an employee, after having been appointed on compassionate ground within the period stipulated by the Hon'ble Supreme Court, can also have the legal claim for allotment/regularisation of the quarter of the deceased employee, when the employee concerned is posted at a place not covered for the purpose of allotment/regularisation.

2. It is not in dispute that the deceased employee, the father of the applicant herein, died in harness on

06.08.94, and the applicant got the appointment on 19.6.95 with respondent Railways i.e. in an eligible office. The appointment is in category-D on permanent basis which entitles the applicant for allotment/regularisation of the Type-I quarter which the deceased employee was occupying. This has not been disputed by the respondents. What is in dispute is the claim of the applicant for retention of the quarter at Delhi when he has been posted to Holambi Kalan, a place not included as a part of jurisdiction of the allotment authorities. The respondents would say that the said place does not fall within the territorial jurisdiction defined by them in the schedule of allotments under Delhi Division. Whereas the applicant would say that it is within geographical territory of Delhi. It is not for the Tribunal to determine as to what places would be covered, area wise, for the purpose of house allotment. Principles laid down by the nodal Ministry i.e. Ministry of Urban Development in this respect are being followed by most of the departmental pool authorities.

3. Under normal circumstances, declaring the applicant or an employee as ineligible for the quarter so long he/she continues to work at Holambi Kalan is not illegal as the particular location of his/her posting was not within the coverage of allotment. But applicant's case falls under a different category. The applicant continued working at Holambi Kalan from 19.6.95 to 25.5.96 on being appointed on compassionate ground. Against this background, the applicant would draw support from the special instructions of Ministry of Railways circulated vide its O.M. dated 22.04.82 (Annexure R1) wherein it has

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been mentioned that when the compassionate appointment is within the period of 12 months after the death of Railway employee, the appointee can be allotted a Railway quarter on out of turn basis even if the appointment is to a station other than the station of posting of the late employee. This is subject to the condition that the deceased or the specified relative did not/does not own a house at the place of posting. As per the applicant, he does not have a house of his own.

4. It is not in dispute that the applicant has since been transferred to Nizamuddin on 26.5.96 and the Nizamuddin is included in the territory of allotment by the respondents. The issue now gets confined to one of offering the benefits envisaged under R1. Respondents are bound by R1 instructions. Applicant's claim thus gets well supported by Railway Board's orders aforesaid even if he was posted for some time outside the territorial jurisdiction of the allotment authority. That apart, even the allotment authorities have discretionary powers to consider genuine cases of hardships on the basis of materials before them. That exercise does not appear to have taken place in this case.

5. The learned counsel for the respondents submits that the applicant has come up with an application dated 24.6.96 requesting regularisation of the said quarter in his name earlier allotted in the name of his father. This he has done on being transferred to Nizamuddin. As submitted by the learned counsel for the respondents, the same is under active consideration.

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6. Under the aforesaid circumstances, the O.A. is allowed with the following directions:-

(i) A1 and A6 annexures shall stand quashed.

(ii) Applicant's claim for regularisation of the allotment of the quarter in question in his name shall be considered in terms of the instructions laid down by the Ministry of Railways vide its communication dated 22.4.82(R1).

(iii) The applicant is directed to submit his application in the prescribed proforma, if any, to the appropriate allotment authority alongwith necessary details to establish his eligibility for consideration of allotment/regularisation of the quarter in question.

(iv) Necessary declaration/affidavit in respect of ownership of house/flatt by the applicant, shall be provided by the applicant as per rule.

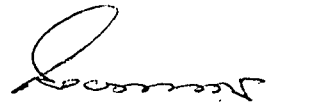
(iii) The rental liability, if any, for the period of his continued occupation of the quarter when he was posted at

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Holambi Kalan would be decided by the respondents in terms of the law laid down on the subject.

The O.A. is disposed of as aforesaid. No costs.


(S.P. Biswas)

Member (A)

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