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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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

O.A. No.1025/1997

NEW DELHI, THIS 3rd DAY OF OCTOBER, 1997.

1. BANKEY LAL
Quarter No.3/6
Railway Lodhi Colony
New Delhi

2. Smt. Rekha Rani
Senior Clerk
CPRC/Divisional Office
New Delhi

...APPLICANT

(By Advocate - Shri H.K. Gangwani)

VERSUS

1. The Chairman
Railway Board
Ministry of Railways
Rail Bhawan
New Delhi

2. The General Manager
Northern Railway
Baroda House
New Delhi

3. Div. Suptd. Engineer (Estate)
Northern Railway
State Entry Road
New Delhi

4. Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi

..RESPONDENTS

(By Advocate - Shri R.L. Dhawan)

ORDER

The applicant No.1 retired as Accounts Assistant on 31.5.1996 from the office of respondent No.2. He was allowed to share the accommodation allotted to him with his daughter-in-law Smt. Rekha Rani, applicant No.2, vide order dated 20.11.1995 (A-2). On the retirement of applicant No.1, applicant No.2 made a representation for

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regularisation of the quarter allotted to her father-in-law in her favour. She submitted her marriage certificate, ration card and affidavit stating that the applicants did not own any plot or home in Delhi. Applicant No.1 also made a representation that the house may be regularised in favour of his daughter-in-law. However, by letter dated 25.6.1996 (A-8), the request for regularisation of quarter in favour of the daughter-in-law was rejected on the ground that a daughter-in-law is not eligible for such regularisation. The applicants submit that the General Manager, Northern Railway, respondent No.2, sent a letter (A-10) dated 11.2.1997 to Chairman Railway Board to consider the regularisation of the railway quarter by relaxing the rules. The applicants also submit that the Supreme Court has already struck down the Railways' instructions by their decision in the case of SMT. SAVITA SAMVEDI VS. UOI 1996 SCC (L&S) 521 and hence the action of respondents in rejecting the request for regularisation is unjustified and illegal.

2. The respondents in the reply rely on the Railway Board instructions No.E(G)/85/QR1-9 dated 15.1.1990 (R-6) according to which a son, daughter, wife, or husband or father may be allotted railway accommodation on out of turn basis provided that the said relation was a railway employee eligible for railway accommodation and had been sharing accommodation with the retiring employee for six months before the date of retirement and had not claimed any HRA during the period. They submit that a daughter-in-law is not eligible under these rules and therefore the request of applicant No.2 for regularisation of the quarter allotted to her father-in-law was rightly rejected.

3. I have heard the counsel on both sides. The short question is whether a daughter-in-law should be considered eligible for out of turn allotment. Shri H.K. Gangwani, ld. counsel for the applicant, submits that the Supreme Court has held in Savita Samvedi case (Supra) that a married daughter is as much eligible as an unmarried one and this being so, the daughter-in-law would be equally entitled. He pointed out that as held by the Supreme Court, the retiring official's expectation in old age for care and attention from one of his children cannot be ignored and his hopes cannot be dampened by limiting his choice. Thus, if he has only one married daughter who is a railway employee and none of his other children are such employees then this choice is limited only to that railway employee's married daughter. In the present case also, his daughter-in-law being the only railway employee in the family, the retiring official could extend his choice to her since the whole objective is to meet the need for care and attention in old age and the same can be provided as much by a daughter-in-law as by a daughter.

4. I am however unable to agree with this argument advanced by the ld. counsel. Firstly, the rules do not mention a daughter-in-law nor a son-in-law. The expectation of the retiring employee for care and attention in old age cannot be spread so wide as to include any relative, otherwise any person claiming kinship with the retiring employee would be eligible for such ad hoc and out of turn allotment, as indeed was the case earlier.

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5. Secondly even the rules of Allotment of Government Residences 1963 define "family" (SR 317-B2) as meaning the wife or the husband, as the case may be, children, step-children, legally adopted children, parents, brothers or sisters as ordinarily reside with and are dependent on the officer. The responsibility of a daughter-in-law towards support, maintenance and welfare of the father-in-law is through her husband and not directly. It cannot also be said that she has a right to an out of turn allotment through her father as well as through her father-in-law and that her responsibility as well as her rights are equal in her father's house as well as her father-in-law's house. It is true that the term "family" cannot be used in a narrow and restricted sense, that is, to include only such persons who trace their descent from a common ancestor, yet when the rules are specific as to what constitutes 'family', we cannot interpose a category which is excluded. To say that a daughter means a married daughter as well, is one thing but to say that daughter also means a 'daughter-in-law' is altogether a different proposition since their rights, obligations and responsibilities vis-a-vis the retiring government official are entirely different.

6. I also do not agree with the ld. counsel that the decision of the Hon'ble Supreme Court in Savita Samvedi (Supra) is of any assistance to the case of the applicant. The rules provide that a daughter is eligible but the respondents were interpreting that this eligibility lapsed as soon as the daughter got married. The Supreme Court held that a married daughter is also eligible. Is a married daughter in the same position as a daughter-in-law towards the retiring government servant? I do not find that this is the ratio of the decision of

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the Supreme Court in Savita Samvedi (Supra) case. Indeed it would appear to be otherwise.

7. In the light of the above discussion, I find no merit in the O.A. which is accordingly dismissed. No order as to costs.

R. K. Ahuja
(R.K. AHOOJA)

MEMBER (A)

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