

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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

O.A. NO. 2434/1994

NEW DELHI, THIS 17th DAY OF APRIL, 1997

1. SHRI HARI ~~SHRI~~ ^{SHRI} MOHAN LAL
S/o Sh. Mohan Lal

2. SHRI MOHAN LAL
S/o Lt. Sh. Revti

R/o Quarter No.27/10
Railway Colony
Hazrat Nizamuddin (East)
New Delhi

..APPLICANTS

(By Advocate - Shri S.C. Saxena)

VERSUS

UNION OF INDIA, through

1. The Secretary
Ministry of Railway
Rail Bhawan
NEW DELHI

2. The General Manager
Northern Railway
Baroda House
New Delhi

3. The Div. Supdt. Engineer
Northern Railway
D.R.M. Office
New Delhi

..RESPONDENTS

(By Advocate - Shri R.L. Dhawan)

ORDER

Applicant No.2 was working as Record Lifter in the Railway and was an allottee of Quarter No.27/10 Railway Colony, Hazrat Nizamuddin, and retired on superannuation

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w.e.f. 31.1.1994. Applicant No.1, son of applicant No.2, has also been working in Railways as Waiter/Khalasi since 1989. He was initially appointed on 10.5.1989 at Rail Yatri Niwas, Northern Railway, New Delhi, and was later on posted to Allahabad Division with its headquarter at Kanpur where he remained upto 2.8.1993 and was then again transferred to Baroda House headquarter office before being shifted to Shatabdi Express Train. He claims that since his appointment, and even during his transfers, he has all along been residing with his father (applicant No.2) at Delhi. There was no payment of HRA to him and a sum of Rs.25/- was also deducted from his salary. The grievance of the applicants is that on the retirement of applicant No.2, his dues like gratuity has not been released nor the quarter has been regularised in favour of applicant No.1 and instead the respondents have threatened to get the quarter vacated forcibly. The applicants have now approached the Tribunal seeking a direction to respondents not to forcibly evict the applicants and to release the gratuity of applicant No.2.

2. The respondents in reply state that applicant No.2 on retiring from service made a representation to retain the quarter for a period of four months, for which permission was granted. Later another application was made to retain the quarter on the ground of illness of his wife and permission was granted for another four months upto 30.9.94. A notice was thereafter issued to the applicants for vacating the railway quarter. They say that applicant No.1 never made any application for regularisation of the quarter. An application made by applicant No.2 seeking sharing permission with applicant No.1 had been earlier considered and rejected by the competent authority.

On

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I have heard the counsel on both sides. As per Ministry of Railway's instructions RBE 7/90, the conditions for such a regularisation in favour of a specified relative on retirement of the original allottee is that such relation should be a railway employee, ~~should be~~^a eligible for railway accommodation; secondly should have been sharing the accommodation with the retiring railway employee for at least six months before the date of retirement; and finally that such relative had not claimed any HRA during that period. The ld. counsel for the respondents submits that the applicant No.1 is in any case not eligible since he was posted in Allahabad Division with headquarters at Kanpur upto 2.8.1993 while his father retired on 31.1.1994. In the nature of his posting to Allahabad Division, applicant No.1 could not have ~~either~~^a shared the accommodation with applicant No.2. The ld. counsel also cited a decision of this Tribunal in OA No.898/95 wherein an application for regularisation was dismissed on the ground that the condition of sharing the accommodation for six months prior to the date of retirement had not been fulfilled in similar circumstances when the ward was not posted at the same station. I do not agree with the ld. counsel for the applicant that the posting of applicant No.1 being on Shatabdi Express Train, he was regularly coming to Delhi, that being the originating station and was thus more or less staying with his father. A railway employee is bound to travel from station to station but his place of posting is determined with respect to the headquarter notified in his posting order. In this case, upto 1993 the headquarter of applicant No.1 was admittedly Kanpur in Allahabad Division. In these circumstances, the ratio of the order in OA No.898/95 squarely applies

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to the present case also. Since applicant No.1 was not posted at the same station for six months prior to the date of retirement of his father, he does not fulfill one of the essential conditions for regularisation of the quarter in his favour.

In the light of the above discussion and facts and circumstances of the case, the O.A. being devoid of merit is dismissed. No costs.

R. K. Ahuja
(R.K. AHUJA)
MEMBER (A)

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