

X

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.449/1994

(8)

New Delhi, This the 29th Day of July 1994

Hon'ble Shri P.T.Thiruvenadadum, Member (A)

1. Shri Raj Kumar, Shunting Porter,
Under Station Superintendent,
Northern Railway, Patel Nagar,
New Delhi.

2. Shri Ram Saroop
Retd. Coach Attendant
Quarter No.164/A-4 Rly Colony
Baharganj
New Delhi.

..Applicants

By Shri B S Maines, Advocate

Vs

Union of India: Through

1. The General Manager
Northern Railway
Baroda House,
New Delhi.

2. The Divl Superintending Engineer(Istato)
Northern Rly, D.R.M. office
New Delhi.

3. The Divl Rly Manager
Northern Rly, State Entry
Road, New Delhi.

...Respondents

By Shri H K Gangwani, Advocate

ORDER

Hon'ble Shri P.T.Thiruvenadadum, Member (A)

1. The applicant No.2 retired as Coach Attendant on 30.11.92 and at the time of retirement was in occupation of Railway Quarter No.164/A-4 Rly Colony, Baharganj, New Delhi which had been duly allotted to him during service.

2. The applicant No.1 is the son of applicant No.2 and had been appointed as regular Shunting porter in Nov 1987. The applicant No.1 had not been drawing House Rent Allowance since march 89 as per

..2/2

Station Supdt, Patel Nagar's letter to DCW New Delhi (Annexure A5 to OA). In this letter it has also been stated that applicant No.1 has been residing with his father since March 89. After the retirement of applicant No.2 in Nov 92 a representation was made by the applicants for regularisation of the quarter of applicant No.2 in favour of applicant No.1 on 'father to son' basis. It is claimed that the only conditions to be satisfied in such regularisations are that the son should have been living with the father for atleast 6 months prior to the date of retirement, ~~and~~ ^{and} the son should not have been drawn ~~and~~ ^{and} son should be eligible for allotment of the type of quarter under occupation of the father. The request for regularisation was however rejected on 17.11.93 by the respondents stating that extant rules do not permit such regularisation of such quarter.

3. The only stand taken by the respondents for not permitting the regularisation is that the applicant No.1 had not taken permission from the competent authorities for sharing the accommodation with his father. This stand has been repeated in a number of paras in the reply ^{and} it has been mentioned that the applicant is well aware of the rules that a quarter cannot be regularised in favour of the ward unless and until sharing permission is taken from the competent authority and that the applicant has admitted in writing ^{about} his not having the sharing permission. Since the impugned orders of rejection dated 17.11.93 have not spelt out

reasons for rejection ~~as~~ it is to be presumed that the rejection has been based on the sole ground mentioned in the reply affidavit.

4. The learned counsel for the applicant relied on the orders passed by this Bench of the Tribunal in DA 1554/89 decided on 7.12.89 and reported in (1990) 13 ATC 887. It has been observed therein that once the HRA has not been paid to the applicant sharing permission can be presumed. Instructions regarding regularisation have been re-produced as under:-

"When a railway servant who has been allotted railway accommodation retired from service or dies in service, his/her son, daughter, wife, husband or father, may be allotted railway accommodation on out of turn basis provided that the said relation is a railway servant eligible for railway accommodation and has been sharing accommodation with the retiring or deceased railway servant for atleast six months before the date of retirement or death."

5. It is not disputed that the applicant No.1 was not ^{HRA} drawing ~~right~~ from march 89 till the end of Nov 92 when his father namely applicant No.2 retired. I do not see any reason to take a stand different from the stand taken in a similar case ^{before} this Bench of the Tribunal, as reported above. Hence I am extending the same benefit namely the presumption of sharing permission having been granted and since the objection of the respondents against

SK
11

regularisation has been based only on this premise,
I direct that the quarter should be regularised
in the name of the applicant No. 1 from the date
after allowing for authorised retention of
applicant No.2 on his retirement.

6. This CA is disposed of accordingly. No costs.

P.T. Thiru
27/7/94
(P.T. THIRUVENGADAM)
Member (A)

LCP