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Principal Bench, New Delhi.

OA-542/94

New Delhi this the 27th Day of October, 1994.

Hon'ble Sh. B.N. Dhoundiyal, Member(A)

Shri Bhagat Ram,
S/o Sh. Fattu Ram,
R/o Railway Quarter No.73/A-3,
Railway Colony,
Motia Bagh,
Delhi-6.

Sh. Inderjeet Singh,
S/o Sh. Bhagat Ram,
R/o Railway Quarter No.A-3,
Block-73, Railway Colony,
Motia Bagh, Delhi.

Applicants

(through Sh. A.K. Bhardwaj, advocate)

versus

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

2. The Divl. Railway Manager,
Delhi Division, Northern Railway,
DRM Office, Paharganj,
New Delhi.

3. Divl. Superintending Engineer,
(Assets), Northern Railway,
DRM Office, New Delhi.

Respondents

(through Sh. Shyam Moorjani, advocate)

ORDER(ORAL)

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

The applicant No.1 (Sh. Bhagat Ram) retired as Fitter Grade-II from the Northern Railway on 31.7.1993. A railway quarter No. A-3, Block 73, Railway Colony, Motia Bagh, Delhi was under his occupation. Applicant No.2 (Sh. Inderjeet Singh) is his son who is also a railway employee eligible for allotment of his quarter. He had been given permission to share this quarter by the respondents on 22.5.1992. One of the conditions was that he would not be eligible to draw H.R.A. with effect

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from 20.5.1992. After retirement of his father, applicant No.2 applied for out of turn allotment of his quarter to him. It is clear from Annexure R-2 filed by the respondents that his request was rejected. The ground taken was that in this case provisions of para-3(8) of Railway Ministry's letter dated 15.1.1990 would act as a bar. These provisions are extracted below:-

"3. Provided that in case where the retiring employees including those who take voluntary retirement or the member of his family owns house in the place of his/her posting the specified relative will not be eligible for allotment of railway quarters on out of turn basis.

Note: (i) Orders regarding non-drawal of house rent allowance are applicable only in cases where the dependent is employed in the station where the railway employee has been allotted railway accommodation.

(ii) The concession of adhoc allotment would not be available in the case of a dependent who secures employment in the railway after the date of retirement of parent or during the period of re-employment.

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(iii) Type 'A' accommodation may be regularised in the case of an eligible dependent or his request, even if, the employee is eligible for Type 'B' or higher type of a accommodation.

(iv) The concession of adhoc allotment to the eligible dependent would not be available in case any other dependent is already in occupation of Government accommodation.

(v) Adhoc allotment of lower type of accommodation has to be restricted to the same area or adjoining area where retired employee is having the accommodation. However, licence fee/damages will have to be paid by the retired employee as per relevant rules/extant instructions if there is any delay in allotment of alternative accommodation due to restriction of allotment to such colony.

(vi) The date of regularisation should be from the date of cancellation in case the eligible dependent is already in railway

service and is entitled for regularisation and not from the date of issue of the orders, which was the practice being followed till now.

(vii) Where arrears are due from retired railway employee, a statement indicating arrears due should be furnished to the dependent and he should be asked to furnish documentary evidence/certificate regarding payment of licence fee/damages from the office where the employee was working during the period such arrears were due, in case recovery has already been made or should be asked to make payment of the amount and this should be stipulated as a condition in the letter sanctioning adhoc allotment.

(viii) If an employee's dependent is already drawing HRA and stops drawing the amount six months before the retirement of this employee concerned, the dependent is not eligible for allotment regularisation of quarter."

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It is admitted that except for the provisions mentioned at para 3(viii) applicant No.2 was entitled to such an allotment in terms of the provisions of Railway Ministry's letter dated 15.1.1990.

As mentioned earlier, applicant No.1 retired on 31.7.1993. Applicant No.2 has not been drawing HRA with effect from 20.5.1992 in terms of the letter granting sharing permission dt. 22.5.1992. Thus, he has stopped drawing HRA more than a year earlier. I, therefore, hold that the bar to allotment provided in para 3(8) of the letter dt. 15.1.1990 shall not apply in his case.

In the facts and circumstances of the case, the O.A. is allowed with the following directions:-

- (a) The respondents shall regularise quarter No.A-3, Block-73, Railway Colony, Motia Bagh, Delhi in the name of applicant No.2 from the date of cancellation of allotment in the name of applicant No.1.
- (b) The respondents shall release the amount of terminal benefits within a period of three months to applicant No.1.

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(c) The respondents shall reimburse or adjust any extra charges/penal rent recovered from the applicants.

(d) Interest shall be paid on the delayed payment of pensionary benefits in accordance with rules.

(e) There shall be no order as to costs.

B.N. DHOUDIYAL
(B.N. Dhoundiyal)

Member (A)

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