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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 599/94

New Delhi this 27th May, 1994.

CORAM:

Hon'ble Mr. S. R. Adige, Member (A)

1. Shri Bhim Sain s/o Shri Fakir Chand,
Ex. ECG, Technician,
Central Hospital,
Northern Railway,
r/o Railway Quarter No. 158/1,
Basant Road, Paharganj,
New Delhi.
2. Shri Anil Kumar Jairath,
r/o Shri Bhim Sain,
working as Booking Clerk,
Northern Railway,
Hazrat Nizamuddin,
r/o 158/1, Basant Road,
New Delhi

.....Applicants.

By Advocate Shri S. K. Sawhney.

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Supdtg. Engineer (Estate),
Northern Railway,
DRM Office, New Delhi

....Respondents.

By Advocate Shri K. K. Patel.

ORDER

Applicant No. 1 Bhim Sain, Ex. ECG Technician, retired as ECG Technician, Central Hospital, Northern Railway, New Delhi on 31.1.1920. At the time of retirement, he was the allottee of Quarter No. 158/1, Railway Colony, Basant Lane, New Delhi, and the said accommodation was being shared by his son Anil Kumar, applicant no. 2 on his appointment as Booking Clerk on 30.8.90. Sharing permission was granted vide letter dated 12.11.90 (Annexure-A2),

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whereby the applicant no.2 was ordered to be ineligible to draw HRA w.e.f. 1.8.90. On applicant no.1's retirement, the applicant no.2 applied for regularisation of the said quarter in his name in terms of Railway Board letter dated 15.1.90 (Annexure-A3). The applicants allege that the request for regularisation of the said quarter in applicant No.2's name has not been finalised and the respondents now issued letter dated 10.5.93 (Annexure-A1) threatening to evict the applicants from the said quarter and also threatening to withhold DCRG and post-retirement passes of applicant No.1 which were due on his retirement on 31.1.92. The applicant no.1 claims that he submitted representation dated 24.5.93 (Annexure-A6) but the respondents have neither regularised the said quarter in applicant no.2's name nor released the DCRG and post-retirement passes, and it is against this non-action that the applicants have now come to the Tribunal.

2. In their counter, the respondents state that it is within their right to withhold the payment of DCRG etc. till possession of the quarter is handed over to them. As regards the plea that the applicants are entitled to retain the quarter till the same is regularised in the applicant No.2's name. The respondents state that the rules relating to compassionate allotment/regularisation of the quarter in the name of the ward provide that it is the discretion of the authority to regularise the same quarter or one type below of the same quarter depending upon the facts and circumstances of each case. It is stated that the applicants are unauthorisedly occupying the quarter from 30.9.92 till date, and

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hence a show cause notice was issued in accordance with rules.

3. Railway Board's letter dated 15.11.90 (Annexure-A3) regarding regularisation of the allotment of the railway quarter in the name of eligible dependent of the railway employee who retires from service or dies/in service is quite clear on the subject. Paragraph 2 of that letter states that when a railway employee who has been allotted railway accommodation retires from service or dies while in service, his/her ward may be allotted railway accommodation on out of turn basis, provided that the ward was a railway employee eligible for railway accommodation and was sharing accommodation with the retiring/deceased railway employee within six months before the date of retirement/death and had not claimed any HRA during the same period. The same residence might be regularised in the name of eligible ward if he/she is eligible for a residence of that type or higher type. In other cases, a residence of the entitled type or type next below is to be allotted.

4. The applicants appear to fulfill all the conditions referred to above, and it is not clear as to what difficult is standing in the way of the respondents in regularising the existing quarter, or a residence of entitled type or type next below in the name of applicant no.2. When the facility of regularisation of quarter is provided by the railway authorities, it is expected that the concerned functionaries will act promptly and not arbitrarily.

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5- Under the circumstances, this application is disposed of with a direction to the respondents to regularise the existing quarter in the name of applicant no.2 if he is eligible for that type or higher type, and if he is not ^{so far} eligible, then to allot him a residence of entitled type or a residence next below. I further direct that the period from 30.9.92 till the date of regularisation, allotment will not be considered unauthorised occupation, and only normal rent as per extant rules will be charged for occupation of the said quarter from the applicant no.1. The applicant no.1's DCRG as well as his post retirement passes should be released ^{further} ~~on the date of payment~~. These directions should be implemented within two months from the date of receipt of a copy of this order, failing which the applicant will be entitled to interest at the rate of 18% p.a. on the unpaid DCRG. No costs.

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(S.R. ADIGE)
MEMBER(A)

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