

CENTRAL ADMINISTRATION TRIBUNAL, PRINCIPAL BENCH

OA 1732/1994

New Delhi, this 15th day of December, 1994

1. Shri Mota Singh
s/o Sardar Mool Singh
 2. Shri Tejinder Singh
s/o Sardar Mota Singh
both r/o 208/D-4, Panchkuin Road
New Delhi
- .. Applicants

By Shri S.K.Sawhney, Advocate

versus

1. Union of India, through
General Manager, Northern Railway
Baroda HHouse, New Delhi
 2. Divl. Railway Manager
Northern Railway
Chelmsford Road, New Delhi
 3. Divl. Supdt. Engineer(Estate)
DRM Office, Northern Railway
New Delhi
- .. Respondents

By Shri K.K.Patel, Advocate

ORDER

The applicants here are aggrieved by the letter dated 2.9.93 (Annexure A-I) by which they have been asked to pay the damage rent in respect of the railway quarter No.208/D-4, Panchkuin Road, for the period from 15.3.93 to 6.8.93. This quarter was allotted to applicant 1 while he was in service and on his retirement on 17.6.92 on the ground of medical invalidation, applicant 2, who was appointed on compassionate ground from 15.3.93, made a representation on 17.3.93 for regularisation of this quarter in his name. Applicant 2 was allotted quarter No.131/5, DCM Railway Colony vide letter dated 14.7.93, but this quarter was under repair for some time, he occupied it in August, 93 and vacated the earlier quarter on 10.3.93. Applicant ^{no}1 made a representation on ^m24.8.93 to recover panel rent from 18.2.93 to 15.3.93 and normal rent from 15.3.93 to 6.8.93. But the same was rejected by letter dated 2.9.93. Not only this, the

5

respondents have recovered Rs.16,351/- as penal rent from the DCRG of applicant 1 in February, 1994. Hence this application, claiming the following reliefs:

(i) To direct the respondents to regularise the quarters in name of applicant 2 and to charge normal rent from 15.3.93 to 6.8.93;

(ii) To direct the respondents to refund Rs.16,351/- to the applicant and pay interest on the delayed payment of DCRG; and

(iii) and to release post retiral passes.

2. The respondents have filed their reply justifying the issuance of the impugned letter. They say that the applicants were allotted the alternative accommodation on the condition of their handing over vacant possession of the earlier quarter, which they accepted without any protest. They say as per Railway Board's instructions, ad hoc allotment of lower type of quarter has to be restricted, however licence fee/damage rent will have to be paid by the retired employee as per rules, if there is any delay in allotment of alternative accommodation due to restriction of allotment to such colony and also that 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 order which was the practice being followed till now. They deny that the alternative quarter was not in bad condition, but even otherwise it has nothing to do with the present case. They further state that the applicants were asked to vacate the quarter by letter dated 14.7.93, which was not challenged by them. They further aver that the DCRG and retiral passes were withheld as per rules for unauthorised occupation of the quarter in question and based on the judgement of Rajpal Wahi & Ors.

M

3. The applicants have filed their rejoinder reasserting what they have said in the OA.

4. I have heard the learned counsel for the parties.

5. The contention of the applicants' counsel that the applicant 2 was entitled to regularisation of the quarter from 15.3.93 as per Railway Boards instructions contained in OM dated 21.6.90 and 21.8.91 because no notice of termination of tenancy was issued. He says that penal rent could be made only after due process of law by initiating action under section 7 & Rule of PPEAct, 1971.

6. The case of the respondents is that the applicants were aware that permission for retention of quarter was only upto 17.2.93 and therefore whatever was due to applicant 1 can be adjusted at the time of giving retiral benefits. It is contended by the counsel that vacation of quarter and payment of DCRG/retiral passes are done simultaneously and that there ~~is~~ was no administration delay on their part in this context.

7. A perusal of Annexure A-7 Railway Board's letter dated 21.6.90 says that if a railway servant in occupation of railway accommodation retires from service or dies in harness, his son is to be allotted railway accommodation on out of turn basis provided he is a railway servant and is otherwise eligible for railway accommodation and had been sharing accommodation with the retired railway servant for atleast 6

7

4

months. Further, this allotment shall be purely temporary and ad hoc basis subject to his induction training and can be regularised when he is regularly appointed. But in the event of his failing to qualify the final examination and subsequently getting discharged from service, his allotment of quarter will be cancelled.

8. Similarly, ^mAw8 Railway Board's letter dated 21.8.91 provides for allotment of railway quarter to the son of the retiring railway servant subject to his being a railway servant and was sharing the quarter with the retiree for atleast six months before the date of retirement *and not directly H.R.A. my*

9. Admittedly, in the instant case, applicant No.1 retired from service on 17.6.92 on the ground of medical invalidation and he was allowed to retain the railway quarter allotted to him till 17.2.93. He made an appeal for compassionate appointment of his son, applicant No.2, on 1.7.92 but his son was appointed with effect from 15.3.93. Both the applicants made an appeal on 17.3.93 for regularisation of the said quarter in the name of applicant No.2. He was allotted the alternative accommodation by letter dated 14.7.93 but he occupied the same only in August, 1993 as the quarter was in repair as as evident from Annexure A-5.

10. Annexure ^mAw7 and ^mAw8 letters cited by the applicant's counsel do not help the applicants inasmuch as that Applicant No.1 retired from service on 17.6.92 whereas applicant No.2 was appointed to induction training from 15.3.93. But

7

8

considering the fact that applicant No.1 was allowed to retain the earlier quarter upto 17.2.93, he made an appeal for compassionate appointment of his son on 1.7.92, i.e. immediately after his retirement and that there is less than one month delay between 17.2.93 and 15.3.93 (date of joining induction training by applicant No.2) and also that the alternative quarter was in repair for some time which forced the applicants to occupy it only in August, 1993, the delay of less than one month could have been easily condoned by the respondents. Otherwise, the delay will give great hardship to the applicant. In the circumstances, I feel it is a fit case for disposal of the application with the following direction.

11. The applicant No.2 directed to give a representation for condonation of delay within a fortnight of the receipt of this order to the respondents, who are directed to dispose it of within two months thereafter with a reasoned order. If the delay is condoned, they are directed to charge only normal rent for the period from 15.3.93 to 6.8.93 for the railway quarter in dispute and give the applicants the consequential benefits. In so far as release of DCRG and retiral benefits to applicant No.1 is concerned, the respondents are directed to reconsider his representation and dispose it of with a reasoned order. If the applicants are aggrieved, they are given liberty to approach the Tribunal again through a fresh OA. The OA is thus disposed of. No costs.

Meera
(C.J. Roy)
Member (J)
15/12/94

/tvq/