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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1933/1994

New Delhi, this ~~the 25th~~ day of November, 1995

Hon'ble Shri B.K. Singh, Member(A)

1. Shri M.G. Mehta
s/o Shri D.N. Mehta
2. Shri Rajeev Mehta
s/o Shri M.G. Mehta
both r/o 112A-C, Thomson Road
New Delhi

Applicants

By Shri S.K. Sawhney, Advocate

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway
Chelmsford Road, New Delhi
3. Divl. Supdt. Engineer (Estate)
Northern Railway, New Delhi

Respondents

By Shri Shyam Moorjani, Advocate
(represented by proxy counsel Shri M.K. Gaur)

ORDER

This OA has been filed against the order
No.33/E.O./1-4068/92 dated 7.9.94 passed by R-3.

Applicant No.1 is father of applicant No.2. He retired
on 31.3.92 as Chief Welfare Inspector(Sports). Applicant
No.2 has been employed as Khalasi under R-2 having been
appointed against sports quota on regular basis. Applicant
No.1 was in occupation of railway quarter No.SC-3A, Basant
Lane while in service and applicant No.2 was permitted to
share that quarter and he has not been claiming HRA. The
reliefs sought for in the OA are as under:

(i) To quash the order dated 7.9.94;
(ii) To direct the respondents to recover rent for
Type III quarter from applicant No.2 after the
retirement of applicant No.1 on 31.3.92 as per
provisions of para 1713, IREM Part II;

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(11)

(iii) To direct the respondents to release DCRG amounting to Rs. 43,100/- to applicant No. 1; and (iv) to direct the respondents to pay interest @ 12% on the D.C.R.G. withheld from 1.4.1992 till the date of payment.

2. On notice, the respondents filed their reply contesting the application and grant of relief prayed for.

3. Heard the learned counsel for the parties and perused the record.

4. Shri Sawhney read out para 4(i) of the Railway Board's letter dated 5.6.1986, which lays down as under:

"When a railway employee who has been allotted railway accommodation retires from service or dies while 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 was a railway employee eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway employee for atleast six months from the date of retirement or death and had not claimed HRA during that period. The same residence might be regularised in the name of the eligible relation if he/she was eligible for a residence of that type or higher type. In other cases a residence of the entitled type or a type next below is to be allotted".

5. The respondents in their counter reply have contested the propositions of law as enumerated by the applicants in the averments contained in the OA. They have relied upon the Full Bench judgement of this Tribunal in case of Liyakat Ali Khan & Ors. Vs. UOI decided on 29.5.1995, that settled the question regarding allotment of railway accommodation. The aforesaid judgement has taken into consideration the rule position and various instructions of the Railway Board and answered the question whether regular employee who has been granted sharing permission and not claiming HRA is entitled to regularisation of the quarter occupied by retiring/retired railway employee, whether temporary employees or substitutes are entitled to this facility. These questions have been argued in the negative. The rule position is such that no one can claim regularisation as of right.

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6. Further, the Railways have evolved a policy decision as contained in their letter No. E(G)57 LG 5-1 dated 21.2.1958. In this, it has been stated that the broad policy of the Railways is to provide residential accommodation on appointment on rent at subsidised rate to its employees ^{woman/} with special favour shown to/Harijan though the allotment can not be claimed as a matter of right. Within the parameters of the policy decision taken by the Railway Board, his case can be considered either for regularisation if he is entitled to that accommodation and if he is not entitled and is eligible for lower type, the same may have to be allotted to him out of turn. This policy is also based on humane consideration to rehabilitate retired/retiring railway servant. Admittedly, in the present case the applicant No.2 was not eligible for regularisation of the quarter occupied by his father and he has been allotted a quarter as per his ~~existing~~ entitlement and he occupied the same. The question that now remains to be decided is regarding the rent to be charged from the father. The present quarter can ~~not be~~ regularised in the name of the eligible ward is an admitted fact. The father was not entitled to retain the quarter beyond 4 months as per extant rules. Para 6 of the circular relied upon by the applicants is not relevant in the instant case since the same quarter can not be regularised in the name of dependent son as he was not eligible for this type of quarter and he has been allotted a quarter as per his entitlement. In such a case, the father who is a retired railwant servant, will be deemed to be an unauthorised occupant of the said quarter.

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7. There are specific rules regarding retention of railway accommodation. In case of retirement, a railway servant can remain for 4 months from the date of retirement on payment of normal rent/flat rate of licence fee/rent and the next 4 months on grounds of education of children or sickness of self or wife on payment of double the normal rent or double the flat rate of licence fee/rent. It is an admitted fact that applicant No.1 had not applied for retention of quarter beyond 4 months on educational/sickness ground. The contents of the Railway Board's circular No.E(G)89QR 2-15 dated 20.12.89 lay down that in case of unauthorised retention of the railway accommodation, the Railway Administration is under obligation to take the following step:

'No claim' certificate should not be given unless the employee after retirement has vacated the railway quarter and cleared all his appeals of rent, electricity and other charges, etc.

While the retirement/death gratuity or special contribution to PR as the case may be should be withheld in full for non-vacation of railway quarters not only after superannuation but in all cases cessation of service, namely, voluntary retirement, death etc. Further the amount withheld should remain with the Admn. only in the form of cash without conversion into any type of security lest the very purpose of withholding full DCRG should get defeated.

This being so, applicant No.1 will be deemed to be in unauthorised occupation and the respondents are competent to levy damage rent as per extant rules quoted above. The question of payment of normal licence fee will not arise in his case, because it is not regularisation of the same quarter but it is allotment of another quarter as per entitlement of



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Applicant No.2, who knew that he can not claim regularisation of the same quarter and yet continued in the same, without any permission after 4 months. Thus, no case is made out for grant of the reliefs prayed for. Therefore, the OA fails and is dismissed leaving the parties to bear their own costs.



(B.K. Singh)
Member (A)

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