

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1209 of 1989
T.A. No.

DATE OF DECISION 19.12.1989

Piarey Lal & Amrit Lal Applicant (s)

Shri S.K. Sawhney, Advocate for the Applicant (s)

Versus
Union of India & Others Respondent (s)

Shri P.S. Mehendru, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice- Chair man.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Piarey Lal, retired Head Clerk from the Divisional Railway Manager's Office, Northern Railway, New Delhi, and ^{his son} Shri Amrit Lal, Train Lighting Fitter, at New Delhi Station, against impugned orders dated 9.8.88 passed by the Divisional Superintending Engineer (Estate), Northern Railway, and order dated 6.1.89 passed by the General Manager (Engg.), Northern Railway, New Delhi, regarding non-allotment of a Type II quarter to applicant No. 2.

2. The brief facts of the case are that Applicant No. 1 retired on 28.2.87 and was permitted to retain the Type II Railway Quarter No. 198/A-4, Basant Road, New Delhi, till 31.10.87. Applicant No. 2 was appointed on 28.4.78 to Class IV service and was promoted to ^a Class III post on 4.11.87. Applicant No. 2 was allowed to share accommodation with his father before his retirement for a period of nearly 10 months. He was refused allotment of Type II accommodation admissible to Class III employees on the ground that he was not entitled to that accommodation. The case of Applicant No. 2 is that the allotment was made to him for the first time on 9.8.88

as admissible to Class IV employees when he was actually entitled to Type II accommodation. This was also cancelled and a fresh allotment made on 6.3.89 - again a Type I quarter admissible to Class IV employees. It has been stated by the applicant that when a Railway employee retires his dependent who has been in Railway service must be allotted out-of-turn Railway accommodation. He could have been allotted a Type I quarter admissible to him on 28.2.87, but as no quarter was actually allotted, he was entitled to a Type II quarter when the actual allotment was made on 9.8.88 or on 6.3.89 as by that time he had been promoted to Class III service. The learned counsel for the applicants said that the Railway rules make it mandatory to make an out-of-turn allotment to the dependent of a retiring Government official and the allotment has to be to the category of the house to which the dependent Railway official would be entitled. As such, there was no question of allotting a Type I quarter at a time when Applicant No. 2 was eligible for a Type II quarter. He has also prayed that the accommodation occupied by Applicant No. 1 should be regularised in the name of Applicant No. 2.

3. The respondents in their reply have denied that promotion of Applicant No. 2 had been delayed by the administration or that Applicant No. 1 had made any request for allotment/regularisation of the quarter in the name of Applicant No. 2 prior to his retirement. However in June, 1987, an application was received from Applicant No. 1 for allotment of a Type I quarter to his son. A similar request from Applicant No. 2 was also received. Accordingly, Applicant No. 2 was allotted a Type I Railway quarter on out-of-turn basis on 6.3.89, but he failed to occupy the same. Applicant No. 2 was allotted another quarter on 24.5.89, but he did not take possession of the same. According to the respondents, the status of Applicant No. 2 on the date of retirement of Applicant No. 1 was in Class IV category and as such only a Type I quarter could be allotted to him on out-of-turn basis. Merely because Applicant No. 1 was allowed to retain the quarter by a few more months, did not entitle Applicant No. 2 a higher category of quarter. The quarter originally in occupation of the father is being retained by the applicants illegally and unauthorisedly.

4. The learned counsel for the respondents said that the present case is one of out-of-turn allotment of a quarter to Applicant No. 2 on the retire-

ment of his father and the relevant date for the purpose of allotment would be 28.2.87. At that time Applicant No. 2 was entitled to Type I accommodation which has been allotted to Applicant No. 2. Applicant No. 2 has no case for allotment of a Type II quarter on out-of-turn basis. He is eligible to Type II accommodation in the normal course, but can get out of turn allotment on the retirement of Applicant No. 1 on the basis of his entitlement on the date of retirement of Applicant No. 1, namely, 28.2.87.

5. The learned counsel for the applicants said that the Railways are bound to allot a quarter to Applicant No. 2 on the retirement of his father, and when they did not make any allotment to him earlier, he was entitled to a Type II quarter as ^{he was} holding a Class II post from 4.11.87. Applicant No. 1 had been granted permission to retain the quarter upto 31.10.87 and Applicant No. 2 was promoted to a Class III post w.e.f. 4.11.87, much earlier to the orders of allotment vide letter dated 6.3.89, allotment of a Type I quarter to Applicant No. 2 was, therefore, illegal.

6. I have gone through the pleadings and the arguments on both sides carefully. Applicant No. 2 is entitled to out-of-turn allotment only on the basis of the retirement of his father and the effective date would be 28.2.87 when Applicant No. 1 retired. Permission to retain a house upto 31.10.87 does not give any right to Applicant No. 2 to Type II accommodation who in fact was promoted after the retirement of the father. Merely because Applicant No. 1 was allowed to retain the house after retirement, Applicant No. 2 cannot get advantage of both out-of-turn allotment and of a higher category to which Applicant No. 2 was not entitled when Applicant No. 1 retired. The argument that a Type I quarter can be allotted only when there are no Class IV railway servants at the station to occupy them and no Class III staff quarters are available under Rule 1715 of the Manual would be applicable only for normal applications. It is true that there being shortage of Type I accommodation, the Railways should allot appropriate type of accommodation to senior persons, but this is an administrative matter to be looked into by the Railways themselves. I do not see any legal right of Applicant No. 2 that he must be allotted a Type II quarter as admissible to Class III employees on out-of-turn basis. In the circumstances, the application is dismissed. There will be no orders as to cost.

B. C. Mathur
(B. C. Mathur)
Vice-Chairman