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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Regn. No. OA 138 of 1989

Date of decision: 14.8.89

Shri Raj Kumar Sharma

....

Applicant.

Vs.

Union of India

....

Respondents

PRESENT

Shri B.S. Mainee, counsel for the applicant.

Smt. Shashi Kiran, counsel for the respondents.

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Raj Kumar Sharma, against impugned order No. 38/EO/PPE /DE/ DSE/88 dated 15.11.88 passed by the Estate Officer, Northern Railway, DRM Office, Bikaner, against issuing notice to his mother as to why she should not be evicted from the house allotted to her late husband.

as stated in the application
2. The brief facts of the case are that the applicant is working as a Wagon Movement Inspector in the Northern Railways Headquarter Office, Baroda House, New Delhi. His father was working as Black Smith Grade II at Delhi Sarai Rohilla in Bikaner Division and he expired while in service on 9.8.1982. The mother of the applicant and the widow of the late Shri Chuni Lal sent an application on 27.8.82 for appointment of her son in class III service of the Railways on compassionate grounds. As a result, the applicant was appointed as Assistant Station Master after

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an interview held in December, 1982. The applicant completed 9 months training at the Zonal Training School, Chandausi from 11.1.1983 to 5.10.1983 and was ^{then} posted at Ram Pura Beri, which is outside Delhi. Railway Quarter No. E-108/B, Locoshed Delhi Sarai Rohilla, had been allotted to his father during his service. According to Railway rules, on retirement or death of a Railway servant, the quarter may be allotted to his dependent who has been sharing the accommodation with him for at least six months before the date of retirement or death. The same residence can be regularised in the name of the relation who was eligible for a residence of that type or a higher type. This quarter was not regularised in favour of the applicant. The applicant has stated that not only this quarter was not regularised in his favour although he has been living with his father for a long time ^{before} ~~when~~ he died, but he was also posted out of Delhi in violation of Railway Board's orders. The mother has been sending representations to the respondents for regularising the house and in one of the letters, the Railway Board had assured her that the applicant would be posted in Delhi as soon as possible. The amount of gratuity in respect of the applicant's father which was about Rs. 7000/- has also not been paid to the applicant's widowed mother. After various representations, the applicant was posted at Delhi Cantt on 9.3.1986, but the quarter ~~has~~ still not ~~been~~ regularised in favour of the applicant and when the applicant pressed for the same, he

was again transferred from Delhi Cantt to Bara Guda. While working at Delhi Cantt, the applicant had requested the Divisional Personnel Officer, Northern Railway, Bikaner, to post him as a Switch Man (a local post) in Delhi area because of his ailing widow mother and his family was experiencing hardship without the presence of the applicant, but the house has not been regularised. On 15.11.88 the Estate Officer has sent a notice to show cause why the applicant's mother and his family be not evicted from the said quarter. The impugned order and the notice is at Annexure A-1 to the application.

3. The learned counsel for the respondents has stated that the applicant has never made any application except the one at Annexure 8 to the application which is also unsigned and never received by the respondents for getting the house regularised. As he was in Bikaner, he should have taken his mother there instead of keeping the house at Delhi where his ^{late} father was living. She said that rules for regularisation of houses are not applicable to employees posted outside the place where the house is located and there is no legal right of the applicant to get a house at the same station as his father on compassionate grounds. Had the applicant been posted at Delhi, he could have been considered for regularisation of the house, but since he has been posted out, the question of regularisation should not arise and the Estate Officer rightly issued a notice to the applicant's mother.

4. The learned counsel for the applicant cited the case of Miss Pinki Rani Vs. Union of India A.T.L.T.

1987 (2) 301 where it has been stated that there is no time limit for regularising a house unless a person has already been evicted. It is noted that the General Manager, Northern Railways, has noted the request of the applicant for being posted in Delhi but his priority position for transfer has been, according to the priority register, First for posting at Delhi - Sarai Rohilla, Bijwasan, and Patli, and Second at Sadar Bazar and Patel Nagar. It is also noted that according to Northern Railways Memo No. 290-W/16/Pt.X dated 27.2.1986 form C-1 is to be adopted in case of eligible dependent of the deceased employee appointed on compassionate ground. Annexure C-1 lays down that if the eligible dependent (who is already in service in the Railway) is not posted at the same station as the deceased, he will not get any priority as he must be residing at a station of his posting and must have hired a house for himself. This does not speak about persons who were not in Railway employment at the time of the death of the deceased railway employees.

5. It is, however, quite clear that appointments on compassionate grounds are given so that the family may not suffer unduly and that there is an earning member who can support the family. There does not appear to be any obligation that the person concerned must be posted at the same station as the deceased employee although perhaps by convention it must be so, so that the family may continue to live at the same place at least for some time. In this case, I find that the applicant

was sent for training at Chandausi and then posted outside Delhi. As such, the house at Sarai Rohilla occupied by his late father could not be regularised in his name. The applicant was posted in Delhi Cantt for some time, but is now again outside Delhi and unless a person is posted in Delhi, the question of regularisation could not arise. From the various representations, it is seen that the applicant has been trying for a posting in Delhi and except for Annexure A-8 to the application, there appears to be no application from the applicant for regularisation of the house. It is perhaps due to this fact that he could not have asked for regularisation of the house when he was not posted at Delhi. As pointed out by the learned counsel for the respondents, the representation at Annexure A-8 is not even signed by the applicant and according to the respondents, the same has not been received by them.

6. I have carefully considered the pleadings and arguments on both sides and come to the conclusion that merely because the applicant has been given appointment on compassionate grounds, he cannot insist on a posting in Delhi and as such, there is no legal right for regularisation of the quarter occupied by his late father. Had he been posted at Delhi on compassionate grounds, the position would have been different. However, as the respondents have appointed the applicant on compassionate grounds and he is on the priority list for posting at one of the stations in Delhi, it is

for the respondents to consider his posting at Delhi and allot him the house in question, but these are matters which may be considered by the respondents on compassionate grounds only. There cannot be any order from the court giving any direction in these matters or for quashing the impugned order. The application is disposed of accordingly. There will be no orders as to cost.

B. C. Mathur
(B.C. MATHUR)
VICE- CHAIRMAN 14.6.88