

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 2122/89

Date of decision 7.11.91

Sh.Mohinder Singh

Applicant.

Versus

Union of India & Ors.

Respondents.

Sh.B.S.Mainee

Counsel for the applicant

Sh.P.S.Mahendru

Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).
The Hon'ble Sh.I.P.Gupta, Member(A).

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

J U D G E M E N T

(Delivered by Hon'ble Sh.I.P.Gupta, Member(A)).

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant was working as Electrical Foreman in the Northern Railway. He superannuated on 31.7.87.

2. During his service a railway quarter No.164/7, Railway Colony Delhi, Kishan Ganj, Delhi was allotted in favour of the applicant. The applicant's son was appointed in the Railways as Khallasi on 7.2.79 in Delhi. He was living in a rented house. The applicant's son started living with the applicant from September, 1985 and he was granted permission to share the accommodation with the applicant vide order dated 25.11.85. During the period of sharing, the applicant's son was not drawing any House Rent

contd..2p...

Allowance.

3. The applicant, on superannuation on 31.7.87 made an application on 3.8.87 for regularisation of the Railway Quarter in favour of his son, in accordance with the Railway Board's Instructions, to the effect that on retirement of a railway servant his quarter may be allotted to his serving son, out of turn, provided that the said son is eligible for Railway Accommodation and had been sharing the Railway accommodation with the retiring Railway servant.

4. The applicant was allowed to retain the quarter from 1.8.87 to 30.11.87. The applicant continued to press for regularisation of the quarter in favour of his son. On 14.12.88 (vide annexure A-9) the Divisional Superintending Engineer, Northern Railway wrote to S.C. F.O.(Power), Northern Railway saying that the competent authority, vide his letter dated 2.12.88 has approved the out of turn allotment/regularisation of Railway/^{quarter}in favour of the applicant's son. He should, therefore, be allotted the first available Type I quarter from the pool so that Type II quarter be got vacated by his father.

5. The applicant was accordingly allotted a Type I quarter, which the applicant's son occupied on 25.2.89.

6. The applicant has sought for the relief to direct the respondents to refund the sum of Rs.12,611/- to the applicant with interest, which amount has been deducted from his D.C.R. being the penal rent for the period from 1.12.87 to 25.2.89.

7. The ld. counsel for the respondents has pointed out that the applicant's son was not entitled to Type II quarter allotted to his father. He was entitled only to Type I quarter. The applicant was allowed to retain the

quarter upto 30.11.87 at his request i.e. for a period of four months on his superannuation on 31.7.87 and he was told that the said quarter should be vacated within a period of extension granted to him. Since the applicant continued in the quarter beyond 30.11.87 penal rent has been charged for the period from 1.12.87 to 25.2.89.

8. Analysing the facts of this case it is seen that the retention of the quarter was allowed upto 30.11.87 only. The applicant repeatedly requested for regularisation of the occupation of his quarter by his son. It was only on 14.12.88 that the Divisional Superintending Engineer wrote to S.C.F.O., Norther Railway, saying that the competent authority has approved ~~and~~ ^{the} the out of turn allotment/regularisation of Railway quarter in favour of his son and the first available Type I quarter should be allotted to him so that Type II could be got vacated by the applicant. Therefore, though strictly speaking the regularisation of the quarter was only upto 30.11.87, yet the case for out of turn allotment to the applicant's son was under consideration and it was only on 14th December '88 that orders for allotting Type I quarter to his son was issued. Thereafter, a Type I quarter was allotted only on 11.1.⁸⁹~~88~~ and the applicant moved to that Type I quarter on 25.2.89 without much delay.

J.P. G. R.

9. In the above view of the matter the respondents are directed to take a compassionate view in the matter and consider the waiver of penalty rent for the period 1.12.87 to 25.2.89 and recover only the normal rent that may be leviable and on this basis any additional sum recovered may be refunded to the applicant. We are not inclined to grant any interest on such refund.

pd

7

: 4 :

10. With the above direction the case is disposed of. There is no order as to costs.

I.P. Gupta
(I.P.GUPTA) 7/11/91
MEMBER(A)

Ram Pal Singh 7.XI.91
(RAM PAL SINGH)
VICE CHAIRMAN (J)