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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH,
NEW DELHI.

O.A.No.2214 of 1989

New Delhi this 13th May, 1994

CORAM:

Hon'ble Mr. S.R. Adige, Member(A)

1. Shri Binda,
retired Train Lighting Fitter,
Railway Station,
Delhi,
r/o Q.No.39-A/I Shri Ram Road,
Delhi.

2. Shri Ram Naresh,
s/o Shri Bina,
Train Lighting Khalasi,
under Senior Foreman (Coaching)
Delhi

By Advocate Shri B.S. Mainee

.....Applicants.

Versus

Union of India: through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

3. The Divisional Superintending Engineer,
(Estate) Northern Railway,
DRM Office,
New Delhi

.....Respondents.

None for the respondents.

J U D G M E N T

The applicants No.1 and 2 have prayed that quarter No.39-A/I, Shri Ram Road, Railway Colony, Delhi which stood allotted to applicant no.1, be regularised in the applicant no.2's name consequent to the applicant no.1's retirement w.e.f. 31.10.85.

2. It is claimed that applicant No.2 was appointed as a Casual Labourer in 1977; was

screened on 24.4.79 and on being found fit, was regularised thereafter. It is further claimed that the applicant no.2 has been sharing ~~with~~ the quarter with his father ever since he was appointed and permission for sharing was granted vide letter dated 14.10.80 (Annexure-A2). It is asserted that the applicant no.2 has not drawn any HRA so far and claimed that although he was fully entitled to get the said quarter regularised in his name and his case was also recommended by the DRM's office vide letter dated 12.11.86 (Annexure-A3). It was certified vide letter dated 23.9.87 (Annexure-A3A) that applicant no.2 was a regular employee since 24.4.79 in the permanent cadre. His prayer for regularisation was illegally refused on the ground that he was not a regular employee on the date his father-applicant no.1 retired.

3. The respondents in their counter affidavit have challenged the contents of the O.A on the ground that the applicant no.2 was appointed in the Northern Railway on 24.4.79, but not as a regular employee, and he was regularised w.e.f. 11.5.87, much after his father applicant no.1 retired. It is pointed out that the letter dated 23.9.87 (Annexure-A3A) contains a mistake regarding regularisation, as is clear from the averments in the O.A. itself. As the applicant no.2 was not a regular employee on the date his father applicant no.1 superannuated, it is contended that the prayer for regularisation of the quarter is fit to be rejected.

4. I have heard Shri Mainee, learned counsel for the applicant. None appeared for the respondents although I waited for a considerable time.

5. Shri Mainee has invited my attention to a seniority list purported to have been circulated vide letter dated 16.2.88 (Annexure-A9A) which appears to have been issued in continuation of a seniority list dated 22.2.85^{Amol /vi} interpolates the names of various persons including the applicant no.2, who were not screened due to administrative reason of 1979 screening. In this list, the applicant no.2's name finds mention at serial No.1967/A and his date of appointment has been shown as 24.4.79 and in the remarks column, the date of screening is shown as 19.2.87. On this basis, Shri Mainee claims that although applicant no.2 was screened on 19.2.87, he was regularised retrospectively w.e.f. 24.4.79.

6. It does not appear necessary to decide the controversy whether or not the applicant no.2 was a regular employee on the date his father applicant no.1 superannuated, to adjudicate the applicants' prayer for regularisation of this quarter. Even if the applicant no.1 was appointed only as a Casual Labourer on 24.4.79, It is not denied that he worked continuously till the date his father applicant no.1 superannuated (31.10.85) and having putting ^{in /m} much more than 120 days of continuous service ^{he /m} had attained temporary status. Shri Mainee has invited my attention to O.A.No.281/90 'Atma Ram Vs. Union of India', decided on 24.5.93, in which, based upon a number of other judgments of

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the Tribunal, it had been held that as the applicant no.2 had acquired temporary status and was ⁱⁿ leaving with his father (applicant No.1) with the permission of the authorities for ~~more~~ ⁱⁿ than six months before the retirement of applicant no.1, he was entitled to regularisation of the quarter. Following the ratio of that judgment in Atma Ram's case (Supra), the ⁱⁿ ~~the~~ ⁱⁿ ~~application is~~ ^{allowed and the} respondents are directed to regularise the allotment of quarter No.39-A/I, Shri Ram Road, Railway Colony in favour of applicant no.2 Ram Naresh w.e.f. 1.1.86, subject to the payment of normal license fee as per extant rules. These directions should be implemented within three months from the date of receipt of a copy of this judgment. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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