

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

No. O.A. 473/1989.

DATE OF DECISION: February 15, 1990.

Trilok Chand Applicant.
Shri R.L. Sethi Advocate for the Applicant.
V/s.
Union of India & Ors. Respondents.
Shri P.S. Mahendru Advocate for the Respondents.

CORAM: Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgement? Yes.
2. To be referred to the Reporter or not? Yes.
3. Whether his Lordship wishes to see the fair copy of the Judgement? No.
4. To be circulated to all Benches of the Tribunal? No.

(Signature)
(P.C. JAIN)
Member(A)

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JUDGEMENT

The applicant, who is a Box Porter under Loco-Foreman, Northern Railway, Tughlakabad, New Delhi, has in this application under Section 19 of the Administrative Tribunals Act, 1985, challenged letter dated 12.7.1988, by which his representation for regularisation of Qr. No.125/17, Railway Colony, Kishanganj, was rejected and order dated 17.2.89 by which he was informed that the tenancy of the said quarter stood cancelled with effect from 7.11.85 and he should vacate the same within 10 days. He has prayed that the above two impugned orders be set aside; the said Railway Quarter be regularised in his favour; and the penalty of forfeiture of one set of Railway Pass be declared null and void.

2. The relevant facts, in brief, are that Quarter No.125/17, Railway Colony, Kishanganj, Delhi, was allotted to the applicant's father, who was working as Train Light Foreman, Northern Railway. The father died on 7.9.85 while in service and the applicant's mother also died on 9.5.86, leaving behind the applicant and two other minor children. The applicant had been residing with his father in the said quarter. As the applicant was minor at the time of the death of his father, he was appointed on compassionate grounds

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as Box Porter on attaining the age of 18 years, with effect from 23.11.87. He applied for regularisation of the said quarter in his name on 12.2.88 and also made a representation, which was rejected by the impugned order dated 12.7.1988 (Annexure A2 to the application). He states that he filed an appeal on 4.8.88 (Annexure A-5 to the application), which is stated to have been rejected by the impugned order.

3. I have gone through the material of the case on record and have also heard the learned counsel for the parties.

4. The applicant's case, in brief, is that he is eligible for Railway accommodation; that he had been residing with his deceased father and sharing the accommodation allotted to him for more than the prescribed period of six months; that he had been given employment on compassionate grounds; and that he is entitled to regularisation of the said quarter in accordance with the relevant instructions of the Railway Board, for which he has relied on the judgement of the Central Administrative Tribunal, Principal Bench, New Delhi, in the case of Miss Pinki Rani Vs. Union of India & Ors. (O.A. No.402 of 1986 decided on 13.3.1987 - II (1987) ATLT 301), copy at Annexure A4.

5. The case of the respondents, in brief, is that as the applicant was not in service of the respondents at the time of the death of his father, he is not entitled to the regularisation of the quarter allotted to his father and that he will be allotted accommodation only on his turn and in the category to which he may be entitled. It is also stated that the appeal dated 4.8.88 said to have been sent by the applicant, was not received by the respondents.

6. In the cited case of Miss Pinki Rani V/s. Union of India & Ors. (supra), the Railway Board's letters dated 22.12.79, 29.11.77 and 25.6.66 came up for examination. In that case also, the father of the applicant was a Railway servant and had been allotted a Railway quarter. He also died

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- 3 -

uring service and at the time of his death, the applicant was minor. Her mother was appointed as a temporary water-woman on compassionate grounds, but could not be continued and absorbed permanently since she was declared medically unfit. After the applicant attained the age of 18 years, she requested for appointment on compassionate grounds and was appointed as Office Clerk, vide order dated 27.9.1985. She had also applied for regularisation of the quarter that was allotted to her father and in which she and her mother had been residing. The only ground taken by the respondents was that the applicant should have been in service within 12 months from the date of death of her father and as she was appointed only on 27.9.1985 while the father died on 14.9.78, she was not eligible for regularisation. It was held in that case that the eligibility of the applicant for allotment stood established and the respondents were directed to regularise the quarter allotted to her father during his service in favour of the applicant on the prescribed terms for such regularisation.

7. In the case before me also, the material facts are identical except in respect of the dates of death and ~~xxxxxx~~ of appointment of the applicants, inasmuch as the gap between the death and the date of appointment in the cited case of Miss Pinki Rani was nearly of seven years while in the instant case, it is over two years. The other minor difference is that in the cited case, after the death of the father, the mother of the applicant had been given temporary employment while in this case, the applicant has been appointed on compassionate grounds. In both the cases, however, the applicants were given appointments on attaining the age of majority, as they happened to be minor at the time of death of their fathers. The date of appointment of the mother is not available in the judgement of the cited case. This, however, does not appear to be very relevant because the

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applicant, who applied for regularisation of the quarter, was not appointed within 12 months of the date of her father, i.e., the point on which the whole case of the respondents was based.

8. I respectfully agree with the ratio of the judgement in the case of Miss Pinki Rani Vs. Union of India & Others (supra) and hold that the applicant is entitled to the regularisation of Quarter No. 125/17, Railway Colony, Kishanganj with effect from the date of his appointment, i.e., 23.11.87 on the conditions prescribed for such regularisation. Regularisation in his name from a prior date would not be legally tenable, as he was not in Railway service during that period. For the period from 7.11.85 to 22.11.87, the respondents would be free to take appropriate action for recovery of rent etc. from the original allottee of the quarter in accordance with the rules, if so advised.

9. Neither party has disclosed whether the applicant is eligible for the same type of accommodation which is available in Quarter No. 125/17. Therefore, if the applicant is not entitled to this type of accommodation, the respondents would be free to allot to him the type of accommodation to which he is entitled under the rules, but the applicant will not be dispossessed from the said quarter until such an alternative accommodation is allotted to him.

10. In view of the above findings, his entitlement to Railway Pass from the date of his appointment may also be restored.

11. In view of the above discussion, the application is allowed in terms of the directions given in paras 8 to 10 above. The parties shall, however, bear their own costs.

16/11/1990
(P.C. JAIN)
Member(A)