

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1459/ 1988
~~F.A. No.~~

DATE OF DECISION September 29, 1989.

Shri Ved Parkash Applicant (s)

Shri Umesh Mishra Advocate for the Applicant (s)

Union of India Versus
Respondent (s)

Shri O.N. Moolri Advocat for the Respondent (s)

CORAM :

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

~~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 ?

yes.
yes.
no.
no.

JUDGEMENT

It is a very short matter. The applicant joined as Khalasi in the Northern Railway on 15.3.1979, was given the pay scale from 1.1.1983, claims to have acquired temporary status on completion of service of 120 days from the date of joining i.e., 15.3.1979, and is now posted as Substitute Khalasi against permanent vacancy. It is also stated that he is a member of the Provident Fund Scheme and his account number is 320699, has been issued Railway Medical Attendance Identity Card No.5208, and has been issued Identity Card bearing No.103507 in June, 1985. He also states that he has been working continuously.

2. The claim of the applicant is that in accordance with the provisions of Rule 2511 of the Indian Railway Establishment Manual and, as mentioned in the judgement of the Supreme Court in the case of Ram Kumar & Ors. Vs. Union of India & Ors. (Writ Petition Nos.15863-15906 of 1984), he is entitled to allotment of Railway residential accommodation.

He has also raised the plea of discrimination as one Shri Bhupan Chand, who was casual khalasi and who joined service in 1982 i.e., much later than the date of joining of the applicant, he was allotted Quarter No.186/1-B, Pahar Ganj, New Delhi. He has produced a copy of that allotment letter (Annexure 'D' to the application) which shows that Bhupan Chand, Gang Khalasi under PWI, New Delhi, was allotted the above said quarter with effect from 15.11.83, under orders of Minister of State for Railways, after retirement of his father on 30.6.83. The applicant has prayed for a direction to the respondent, their officials and agents to regularise quarter No.189/B-1, Railway Colony, Pahar Ganj, New Delhi, which was allotted to his father who retired from the Railway service on 30.6.1981, and which is still in their possession, in the name of the applicant. On his prayer for interim relief, the Tribunal, vide orders passed on 23.8.1988 directed that he should not be evicted from the railway quarter until further orders, during the pendency of the application. It is also pleaded that the representation made by him in this respect has not been disposed of under intimation to him so far. During the course of the oral arguments, the learned counsel for the applicant pleaded that it would be adequate if only a direction is issued to the respondents to consider and dispose of his request within a fixed time.

3. The case of the respondents, as per their written statement, is that the applicant is not entitled to regularisation of the quarter allotted in the name of his father and for which separate eviction proceedings are pending. The conditions mentioned in Annexure R-1 to the written statement are said to be not fulfilled in this case. A perusal of these conditions shows that if a railway servant who had been allotted railway accommodation, retires from service or dies in service, his/her sons, daughter, wife, husband or father may be allotted railway accommodation on

out of turn basis provided -

- (1) the said relation is a railway servant,
- (2) had been sharing accommodation with the retiring or deceased railway servant for at least six months before the date of retirement or death,
- (3) no out of turn allotment of accommodation is made to any such persons if they had been drawing house rent allowance suppressing the fact that they were sharing the accommodation allotted to their father/son/husband/wife, as the case may be; and
- (4) that the scope of these orders is to be confined to such of the wards as are regular employees and that casual labour and the substitutes with or without temporary status are excluded from the purview of these orders.

It is also stated that the applicant has been drawing house rent allowance and also not being a regular employee is not entitled to out of turn allotment. Nothing is, however, mentioned in regard to the applicant's plea of discrimination in respect of the specific case of allotment of accommodation in violation of their own orders as discussed above.

4. I have gone through the pleadings of the parties and have also heard their learned counsel.

5. It is not disputed that the applicant is entitled to allotment of residential accommodation; the point of dispute is that the applicant wants out of turn allotment on the basis of a case of such allotment cited by him while the respondents are quoting the administrative instructions for out of turn allotment under which the applicant does not appear entitled to such allotment, as admittedly he has no permission to share the accommodation with his father after he joined the railway service and he has also been drawing the house rent allowance. A copy of the application dated 21.3.1985 addressed to Mandal Adhakhshan Engineer (Sampati),

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Uttar Railway, New Delhi, given by the applicant to the effect that he may be given permission to share accommodation with his father with effect from the date from which he acquired temporary status and that payment of house rent allowance be stopped to him was shown at the bar by the learned counsel for the applicant. This also proves that he did not have the permission to share accommodation with his father and that he has been drawing house rent allowance. In para 9 of the rejoinder, he has stated that he is prepared to give up the H.R.A. as he is interested in regularisation of the quarter in his name.

6. Keeping in view the facts that the applicant has already rendered 10 years service, has become eligible to be regularised in view of his appointment as a substitute against permanent vacancy, has been in fact sharing the accommodation with his father during the entire above period, and is prepared to refund the H.R.A. paid to him, and also in view of the fact that his representations in this regard are stated to have remained undisposed, I am of the view that it would meet the ends of justice if the respondents are directed to dispose of the request of the applicant for regularisation of the quarter allotted in the name of his father, particularly in view of the allotment made in the case of Bhupan Chand, Gang Khalasi, within a period of two months from the receipt of copy of this order by the respondents, and in any case latest by 15.12.1989 under intimation to the applicant. I direct the respondents accordingly. The interim order passed on 23.8.88 will stand vacated with effect from 16.12.1989.

7. The parties shall bear their own costs.

Cc- 29/9/89
(P.C. JAIN)
MEMBER (A)