

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 859/ 1988.
~~F.A. No.~~

DATE OF DECISION 8.9.1989.

Shri Ayudhya Parshad and Applicant (s)
Another

Shri B.S. Mainee Advocate for the Applicant (s)

Union of India & Others Respondent (s)
Versus

Shri S.N. Sikka Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice Chairman.

~~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 ?

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985 against impugned order dated 23.4.1987 passed by the Divisional Superintending Engineer / Estate, Northern Railway, New Delhi, regarding non-regularisation of a residential quarter. The applicant No.1 Shri Ayudhya Parshad, who was working as Section Officer in the Northern Railway, retired on 31.3.1986. His daughter Km. Tarun Bala, applicant No.2, was selected as Stenographer in the Railways by the Railway Recruitment Board, Chandigarh on 12.9.1985, but was given appointment only on 11.11.1985, although vacancies were existing against which applicant No.2 was absorbed. According to the Railway Board's circulars dated 25.6.1966 and 20.1.69, on retirement of a railway servant, his quarter may be allotted to his serving son/daughter out of turn provided the said relation is eligible for railway accommodation and had been sharing the accommodation with the retiring railway servant for six months before the date of retirement. The case of the applicant is that applicant No.2

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was actually selected two months earlier and had she been appointed immediately on 12.9.1985, the period of six months of living together in the house would have been satisfied, but because she was appointed on 11.11.1985, there is a shortfall of one month and a few days and that this should be ignored for the purpose of regularisation of the house in the name of his daughter. The applicant has given a list of railway employees who have been given relaxation for this purpose from time to time and states that by not considering her case, the Railways have discriminated against the applicants.

2. The respondents, in their reply, have brought out that the ^{first} applicant was allowed to continue in the house upto 31.7.1986 i.e., upto four months after retirement and a notice was given to him for vacating the quarter thereafter. Applicant No.2 was given appointment on 11.11.1985 i.e., 4 months and 20 days ^{prior} earlier to the retirement of applicant No.1 and as the condition of six months is not fulfilled, she has no claim to the regularisation of the quarter. It has been stated that relaxation to the rules are given by the competent authority on the merits of each case and, therefore, the applicant cannot claim that merely because relaxation has been given in some cases, such relaxation must be given in the case of the applicant.

3. The applicant has pointed out that in many cases, houses have been regularised where the dependants had been appointed much after the retirement of the retiring officer, whereas in this case, applicant No.2 was appointed more than 4 months earlier than the retirement of applicant No.1. Her case was recommended by the General Manager, Northern Railway to the Railway Ministry seeking instructions for regularisation of the railway quarter as normally her case was not covered under the existing rules for regularisation of the railway quarter. The Railway Board had referred the matter to the F.A.&C.A.O., Northern Railway for his comments and the

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F.A.&C.A.O. gave his opinion as follows: -

"There is^a/lot of merit in the case. The house may be regularised as a special case. There are no financial implications involved. This has the approval of Addl. F.A.&C.A.O."

This letter of the General Manager, Northern Railway, dated 16.10.1986 conveying the above recommendations of the FA&CAO also pointed out that relaxation of the rules have been granted previously by the Railway Board in the case of one Shri Yoginder Singh, Khallasi, Motorshop, Tilak Bridge, Northern Railway. The ^{fresh} applicant has stated that he has only one daughter in the family and there is no one else to look after ^{him} her and he has no house in Delhi. He has stated that in view of the fact that the Railway Board has given relaxation in some cases even when the dependent was appointed after the retirement of the officer, the case of applicant No.2 is on a much stronger footing.

4. I have gone through the pleadings in the case and also heard the learned counsel on both sides. There is no doubt that if the rules are interpreted strictly and correctly, applicant No.2 has no legal right as such to get the house regularised in her name because she had not shared the house with her father as a serving officer for a minimum period of six months. The fact that she did not get any HRA is not very material because having lived in a Government quarter, she is not entitled to HRA in any case. The circumstances under which relaxations have been given in other cases have not been explained. ~~Although~~ ^{for giving} ~~the Government~~ ^{and} have an inherent right ^{to} relaxation, that cannot be treated as legally binding on all. There may be a number of other cases also of this type where relaxations may be asked for.

5. This is a matter to be considered by the respondents on compassionate grounds and one can hope that in view of the recommendations of the FA&CAO given in response to a letter from the Railway Board and in view of the fact that

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a number of relaxations have been given, the respondents may like to review the case of the applicant sympathetically. Subject to these observations, the application is rejected. There shall be no order as to costs.



(B.C. MATHUR)
VICE CHAIRMAN
8.9.1989.