

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI

Regn. No. OA 1327 of 1987

Date of decision: 28.11.1988.

1. Shri Anil Parkash

Applicants

2. Shri Om Parkash

Vs.

Union of India

Respondents

PRESENT

Shri S.K. Sawhney

Counsel for the applicants.

Shri S.N. Sikka

Counsel for the respondents.

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Anil Parkash and his father, Shri Om Parkash, against impugned orders No. 159-EO/54/147 dated 4.8.1987 passed by the General Manager (Eng.), Northern Railway, New Delhi, rejecting the case of regularisation of the Government quarter occupied by Applicant No.2 at the time of his retirement.

2. The brief facts of the case, as stated in the application, are that the Applicant No.1, Shri Anil Parkash, was employed as Substitute Loco Cleaner on 4.8.1980 and was living in Railway Quarter No 165/2, Railway Colony, Kishan Ganj, Delhi, allotted to his father, Shri Om Parkash, Applicant No.2, since 8.9.1984. Shri Om Parkash retired as Driver Grade 'B' on 31.3.1987. Shri Anil Parkash was granted sharing permission on 22.5.1985 and was entitled to regularisation of the said quarter on the retirement of his father. The Applicant No.1 submitted his application for regularisation in March, 1987, but it was rejected. Shri Om Parkash had remained loyal and worked day and night during the illegal Loco Running Staff strike in June 1980 and was rewarded

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by the appointment of his son against quota for loyal railway workers. The Applicant No.1 worked as Loco Cleaner upto January 1983 when he was absorbed as Van Porter at Rajpura and again transferred as Parcel Porter under Station Superintendent, Delhi, and has been in continuous service from 1.8.1980. The applicant No.1 started living with his father in the railway quarter at Kishan Ganj and his house rent was also stopped from 7.9.1984. The applicant No.2 retired after 31 months from the date of grant of sharing permission. The Applicant No.1 was to be treated as a regular employee for the purpose of regularisation of quarter as he had been appointed against loyal quota and had worked for more than seven years as per the letter of the Assistant Personnel Officer, Northern Railway, dated 10.7.1987 (Annexure A-6 to the application). The respondents not only rejected the claim for regularisation/allotment of the Railway Quarter in the name of the Applicant No.1, but also initiated eviction proceedings against the Applicat No.2.

3. According to Rule 2318 of the Indian Railway Establishment Manual, substitutes should be afforded all the rights and privileges as may be admissible to temporary railway servants from time to time on completion of six months continuous service. It has been pointed out that persons similarly placed and junior to the Applicant No. 1 have been granted the benefit of regularisation or allotment of quarter.

4. The respondents in their reply have stated that the facility of allotment of railway accommodation to the ward of a retiring railway servant constitutes a special dispensation in favour of the eligible wards of the retired or retiring employees and casual labour and substitutes are excluded from such dispensation. The Applicant No.1 has already been granted one concession concerning the employment in consideration of the loyal service of Applicat No.2 during June 1980 strike. The Railway Board in 1981 clearly spelt out its policy with regard to the allotment of residential accommodation to the ward of a retiring railway employee and have clearly laid down therein that casual, substitutes

and unscreened workers are not eligible for this special dispensation and as such Applicant No.2 is liable to be evicted from the Railway premises which are under his illegal occupation. The applicant would be entitled to allotment of a house depending upon the normal date of priority in his particular cadre.

5. The learned counsel for the applicant produced a copy of letter No. 290-W/16/Pt.IX/W.Qrs dated 17.10.1986 issued by the General Manager (Engg.), Northern Railway Headquarters, on the question of allotment/regularisation of Railway quarters to the staff on compassionate grounds. The present case may not be strictly on compassionate grounds, but the appointment was given to Applicant No. 1 under very special circumstances.

6. The main point to consider in this case is whether the applicant is eligible for regularisation/allotment of the house occupied by his father on the ground that he was sharing the house with his father, when he was not getting any HRA, as required under the Railway rules. The ground for rejection that the applicant was an unscreened employee is not correct as he had been treated as a regular employee for the purpose of regularisation of a quarter. Annexure A-6 to the application makes it clear that the competent authority has treated the applicant as entitled to regularisation of quarter as he had been appointed under the loyal quota and has been working for more than 7 years. In these circumstances, it is quite clear that the case of the applicant for regularisation/allotment is covered under the rules and that his application should be allowed. However, it was pointed out by the learned counsel for the respondents that the applicant is not entitled to a Type II house where his father has been living and, therefore, the house in question cannot be regularised in favour of Applicant No.1. The learned counsel for the applicants admits that Applicant No.1 is entitled to Type 1 quarter only. In the circumstances, it is held that Type II Quarter No. 165/2, Railway Colony, Kishan Ganj, cannot be regularised/allotted in favour of



the Applicant No.1, but he is certainly entitled to a Type 1 quarter. Since he has been sharing accommodation with his father, but is not eligible for Type II quarter, the respondents are directed to allot a Type I quarter to the Applicant No.1 ~~or~~ as soon as one is available, but till such time as he is actually allotted a Type I quarter, the applicants will not be evicted from their present house No. 165/2, Railway Colony, Kishan Ganj. The Applicant No.1 should be required to pay normal rent for the house as admissible under the Rilway Rules. He will have no right to continue in the present house, once a Type 1 quarter is allotted to him by the respondents. In the circumstances, the application is allowed partly. There will be no order as to costs.



(B.C. Mathur)  
Vice-Chairman