

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

\* \* \*

O.A. NO.1015/1987

DATE OF DECISION : 10.1.92

SHRI MAN MOHAN SINGH

...APPLICANT

VS.

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM

SHRI I.K. RASGOTRA, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI B.S. MAINEE

FOR THE RESPONDENTS

...SHRI O.N. MOOLRI

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the order dt. 15.1.1985 passed by Divisional Superintendent Engineer (Annexure-1). The impugned order is addressed to Sardar Singh, father of the present applicant, who retired from service on 31.5.1984 and has been retaining the allotted quarter No.E-128/A, Babar Road, New Delhi and was asked to vacate the same under Section 138(f) of Indian Railway Act. The relief claimed by the applicant is that the Railway Quarter No.E-128/A,

Babar Road, New Delhi, be regularised in his favour and the respondents be directed to comply with the orders conveyed by the Railway Board vide letter dt. 12.3.1985.

2. The brief facts of the case are that the applicant joined as a Khalasi in the Railway on 1.5.1983 and worked till 30.9.1983. Again he was engaged from 19.11.1983 to 17.1.1984. During this period, he was a casual labourer. The applicant was regularised w.e.f. 25.1.1984 in the pay scale of Rs.196-232/-. The applicant has since been residing with his father in the said quarter No.E-128/A, Babar Road, New Delhi. The father of the applicant retired on 31.5.1984. As per Railway Board's letters dt. 25.6.1966 and 20.1.1969, on retirement of a Railway servant, his quarter may be allotted to his serving son/daughter out of turn provided the son/daughter was eligible for Railway accommodation and had been sharing the accommodation with the retired Railway servant for at least six months before the date of retirement and had not drawn H.R.A. during the said period. Since the respondents refused to regularise the said quarter, so the applicant has filed this application as said above.

3. The respondents contested the application. It is stated that the applicant does not fulfil the basic

essential qualifications for the out of turn allotment of the quarter in his favour, which are as under :-

- (i) That the applicant must be a regular railway employee.
- (ii) That the applicant must be sharing accommodation with the retired employee as a regular employee for a minimum period of six months before the retirement of the railway employee.
- (iii) That the applicant must not be drawing HRA for a period of six months before the date of the retirement of the railway employee retiring.

4. It is further stated that the applicant was a casual labourer and he had neither applied for sharing permission nor he was ever granted any such permission and he was not entitled to HRA on that date on which his father retired. Though no detailed counter has been filed, but this is in reply to the interim relief granted to the applicant.

5. We have heard the learned counsel for the parties at length and have gone through the record of the case. During the course of the arguments, the learned counsel for the applicant filed the circular of the Railway Board dt. 15.1.1990. According to para-2, the conditions of allotment on out of turn basis to the relation of a serving Railway employee has been clearly laid down as follows :-

"When a Railway employee who has been allotted Railway accommodation retires from service or dies while in service, his/her son, daughter, wife, husband or father may be allotted railway accommodation on out of turn basis provided that the

said relation was a railway employee eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway employee for at least six months before the date of retirement or death and had not claimed any H.R.A. during the period. The same residence might be regularised in the name of the eligible relation if he/she was eligible for a residence of that type or higher type. In other cases, a residence of the entitled type or type next below is to be allotted

The learned counsel for the applicant has also filed the judgement delivered by the Hon'ble Supreme Court in

Writ Petition No.15863-15906/1984, Ram Kumar & Others Vs.

Union of India. The Hon'ble Supreme Court observed that it is not disputed that the benefit of disciplinary appeal rules is also applicable to casual labourer with temporary status.

It is also conceded that on eventual absorption in regular employment on behalf of service rendered with temporary status is counted as qualifying service for pensionary benefits.

6. Para-25.11 of Indian Railway Establishment Manual provides that casual labourers treated as temporary are entitled to all the rights and privileges admissible to temporary Railway servants as laid down in Chapter XXIII of the Indian Railway Establishment Manual. The right and privileges admissible to such labourer also include the benefits of discipline and appeal rules. Temporary status holders are entitled to regularisation of quarter on the retirement of father because they are entitled to allotment of quarters in terms of Rule 2511 of IREM. The objection by the respondents taken in a short reply is that the

applicant was not eligible because he was not regularised. However, it is clear from the application that the applicant was given regular grade w.e.f. 25.1.1984. On the retirement of his father Sardar Singh, the applicant applied for the regularisation of the said quarter vide application dt. 30.5.1984 (Annexure-II). Though the applicant was informed by the memo dt. 13.7.1984 (Annexure-III) that the request regarding regularisation in favour of the applicant has been rejected by the competent authority, but no reason thereof has been given. The applicant was already screened on 22.7.1985 (Annexure-V). It is also not disputed that the applicant is working on a regular post for a number of years and he has been granted temporary status w.e.f. 25.1.1984. The applicant is drawing regular pay scale, getting complimentary passes and enjoying other benefits available to temporary Railway servants. Thus the applicant has made out a case where the respondents should have considered the regularisation of the quarter on out of turn basis and should have given a detailed reason for rejecting the representation for allotment/regularisation of the quarter which was earlier allotted to his father.

7. The learned counsel for the respondents has also raised the plea that the applicant has not shared the accommodation with his father for a period of six months. In

view of the judgement in the case of Harinder Singh Vs. Union of India, reported in 1990 (1) ATLT p-141 and in the case of Shiv Ram Bali Ram Vs. Union of India, reported in 1988 (3) SLJ p-289, the sharing of accommodation for six months prior to retirement of the father, the earlier allottee, for regularisation of the said quarter is not mandatory. However, in the present case, the applicant was enrolled as a Khalasi in November, 1983 and he continued to work for some time after which he was discharged and engaged again after a short period and has been continuously working since January 1984. The father of the applicant retired in May, 1984. In view of this fact also, no serious objection can be taken regarding the non sharing of the allotted accommodation to the father by the applicant. The respondents have not filed any detailed reply. The various averments made in the application and most of the points urged in the application have not been properly met by the counter. It has also been argued by the learned counsel for the applicant that the applicant has since been regularised, so if any infirmity was attached to him on account of non regularisation, that now stands removed.

8. In view of the above discussion, the application is allowed and the respondents are directed to regularise

(18)

the Railway Quarter No.E-128/A, Babar Road, New Delhi in  
favour of the applicant and the applicant shall pay the  
licence fee etc. as per Extant Rules. In view<sup>of the above</sup> circumstances,  
the parties shall bear their own costs.

*J.P. Sharma*  
(J.P. SHARMA)  
MEMBER (J)

10.1.92

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A)