

4

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 2244/1990. DATE OF DECISION: 10-1-1991.

Liaquat Ali & Others Applicants.

V/s.

Union of India & Others Respondents.

CORAM: Hon'ble Mr. B.S. Sekhon, Vice-Chairman (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri P.L. Mimroth and Shri S.C. Luthra, counsel for the applicants.

Shri P.S. Maheendru, counsel for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their lordships wish to see the fair copy of the judgment? ☒
4. Whether to be circulated to all Benches of the Tribunal? ☒

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

B.S. Sekhon
(B.S. SEKHON)
Vice-Chairman(J)

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 2244/1990. DATE OF DECISION: 10-1-1991.

Liaquat Ali & Others Applicants.

V/s.

Union of India & Others ... Respondents.

CORAM: Hon'ble Mr. B.S. Sekhon, Vice-Chairman (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri P.L. Mimroth and Shri S.C. Luthra, counsel for the applicants.

Shri P.S. Mahendru, counsel for the respondents.

(Judgment of the Bench delivered by
Hon'ble Mr. P.C. Jain, Member (A).)

JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant No.1 is the son of applicant No.2. Applicant No.2 retired on superannuation on 28.2.90. Quarter No.146/2, Railway Colony, Minto Bridge, New Delhi, was allotted to him while he was in service. He was allowed to retain the same on medical grounds upto 31.10.90 (Annexure A-2). Applicant No.1 has been continuously working as substitute waiter Khalasi since 1.12.1982 under Senior Commercial Officer (Catering), Northern Railway, Parliament House, New Delhi and was allowed to draw pay in the scale of Rs.750-940 with effect from 1.9.1986. The relief prayed for in this application is for a direction to the respondents to regularise the aforesaid Railway quarter in the name of applicant No.1. As an interim relief, it has been prayed that the respondents be directed:

- (1) to allow the applicants to retain the aforesaid Railway quarter on payment of normal rent till final disposal of the case as a very special and exceptional measure for preventing loss being caused to them which cannot be adequately compensated later on; and

Ce.

- (2) Respondent No.2 be restrained from initiating any eviction proceedings for vacation of the aforesaid Railway quarter and for penalising applicant No.2, as contemplated in letter dated 30.8.90 (Annexure A-2).

2. On issue of notice on admission and interim relief, the respondents filed their reply and the applicants have also filed their rejoinder. We have perused the material on record and heard the learned counsel for the parties for disposal of the O.A. at the admission^{stage}/itself.

3. The case of the applicants, in brief, is that applicant No.1, having temporary status, is entitled to allotment of residential accommodation. Further, the request of applicant No.2 for regularisation of the aforesaid quarter in the name of his son, has been rejected illegally and arbitrarily. They have relied on the orders dated 15.1.1990 issued by the Railway Board (Annexure A-4) which permits regularisation of a Railway quarter allotted to a retired Railway employee to his dependent ward who is in service, has shared the accommodation with the allottee for a period of at least six months and has not drawn the H.R.A. from the date of sharing. They have also cited provisions of Rule 2318 of the Indian Railway Establishment Manual and judgment of the Central Administrative Tribunal delivered on 28.11.1988 in O.A. 1327 of 1987 (copy at Annexure A-8), judgment delivered on 7.12.1990 in O.A. 1220 of 1990 and judgment delivered on 29.9.1989 in O.A. 1459/1988, copies of each were supplied during the course of oral submissions.

4. The case of the respondents is primarily based on two grounds, viz., (1) that applicant No.1 has not been screened and appointed on a regular basis and, therefore, he is not entitled to regularisation of the Railway quarter allotted to his father after the latter's retirement, in his name; and (2) the applicants have not availed of the

Clear.

departmental remedies. It was also urged by the learned counsel for the respondents at the bar that in fact, applicant No.1 in whose favour the regularisation of the Railway quarter is sought, has never applied for either out of turn allotment or for regularisation of the aforesaid quarter.

5. The facts of the case in regard to the employment of both the applicants, allotment of the aforesaid quarter in the name of applicant No.2 while in service, and rejection of the request of applicant No.2 for regularisation of the aforesaid quarter in favour of applicant No.1 are not in dispute. The interim reliefs prayed for in this application do not flow from the main relief asked for inasmuch as the subject-matter of the application, as stated by the applicants in para 1 (iv) of the O.A. relates to rejection of the prayer for regularisation of the aforesaid quarter occupied by applicant No.2 in the name of applicant No.1. Applicant No.2 admittedly retired from Railway service on 28.2.90. Under the normal rules, he could keep this quarter for a period of four months thereafter and he was allowed to retain the quarter for a further period of four months ending on 31.10.1990, vide orders at Annexure A-2. We have not been shown any rule / order under which applicant No.2 can retain this quarter beyond 31.10.1990. Both the interim reliefs pertain to this aspect of the matter.

6. As regards the main relief for regularisation of the quarter allotted to applicant No.2 while in service, in favour of applicant No.1, we do not consider it necessary to go into the merits of the rival contentions of the parties in view of what is stated hereinafter.

7. There is no averment in the O.A. that applicant No.1 ever applied for allotment of residential accommodation on out-of-turn basis or for regularisation of the aforesaid quarter in his name. The impugned order dated 19.6.1990

See

(Annexure A-1) is ~~also~~ with reference to the request of applicant No.2 and is also addressed to him, and not to applicant No.1. From a perusal of the Railway Board's orders dated 15.1.90 (Annexure A-4) by which consolidated instructions regarding regularisation of the Railway quarter in favour of the eligible dependents of the deceased/ retired Railway employee have been issued in supersession of all previous instructions on the subject, it appears that the right for out-of-turn allotment or for regularisation of the quarter allotted to a retiring Government servant accrues to the dependent ward, who is in Railway service, has been sharing the same accommodation for a period of at least six months, and is eligible for allotment of residential accommodation. Para 2 of the aforesaid Railway Board's letter dated 15.1.1990 reads as below: -

"2. 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 atleast 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 above provision shows that the allotment on out-of-turn basis or regularisation has to be in favour of the dependent ward. Obviously there is a form for applying for allotment/regularisation and this can be done only by the beneficiary and not by his father. Similarly Note (vii) in the

Clear.

aforesaid orders reads as below: -

"(vii) Where arrears are due from retired railway employee a statement indicating arrears due should be furnished to the dependent and he should be asked to furnish documentary evidence/ certificate regarding payment of licence fee/ damages from the office where the employee was working during the period such arrears were due, in case recovery has already been made or should be asked to make payment of the amount and this should be stipulated as a condition in the letter sanctioning adhoc allotment. "

The above Note also shows that this obligation has to be discharged by the dependent ward of the Railway servant and not by the retired Railway servant himself.

8. In view of the above provisions in the instructions issued by the Railway Board and in view of absence of any averment or any document to show that applicant No.1 ever applied for out-of-turn allotment or for regularisation of the quarter allotted to his father in his own name and also in view of the fact that the impugned order has not been issued to applicant No.1, we are of the view that the application for the relief prayed for is premature. Similarly, there is nothing on record to show that applicant No.1 has availed of the departmental remedies in this regard.

9. In view of the foregoing discussion, the O.A. is not maintainable in accordance with the provisions of Section 19(3) and Section 20 of the Administrative Tribunals Act, 1985 and is dismissed as such. If applicant No.1 applies to the appropriate authority for regularisation of the aforesaid quarter in his name, we hope that the respondents shall dispose of the same expeditiously in accordance with the Railway Board's instructions dated 15.1.90 ibid. We leave the parties to bear their own costs.

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

B.S. Sekhon
(B.S. SEKHON)
Vice-Chairman (J)

10-1-91