

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 2380 of 1990

Date of decision: 10.4.91

Yogander Pal Tyagi

Applicant

vs.

Union of India & Others

Respondents

PRESENT

Shri S.K. Sawhney, counsel for the applicant.

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

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Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

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

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

By this application, under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays for direction to quash the order of the respondents dated 20.10.1990 (Annexure A-1) and also prays for direction to respondents to regularise the Railway quarter No. C-13/B, Railway Colony, Lajpat Nagar, New Delhi, in the name of the applicant from the date of his appointment. He also prays for direction to the respondents to charge normal and usual rent from the applicant from the date of his appointment. Inter alia, he also prayed for interim relief which was granted by this Tribunal on 20.11.1990. For convenience, the interim order passed is reproduced below:

"In the meantime, the respondents are directed not to dispossess the applicant from quarter No. C-13/B, Lajpat Nagar, New Delhi, subject to payment of licence fee, etc. by the applicant in accordance with the Rules."

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2. The father of the applicant, late Shri Bhagmal Tyagi, was working as a Goods Clerk in the scale of Rs. 330-560 and was in occupation of railway quarter, referred above, which was allotted to him during the service by the respondents. The father of the applicant died on 22.7.83 in harness. The mother of the applicant filed a representation before the respondents on 28.7.84 (Annexure A-2), and on compassionate grounds the applicant was appointed as Booking Clerk vide letter dated 20.9.1985 (Annexure A-3) and after completing his prescribed training, he was posted in that post at New Delhi. The applicant then prayed for the regularisation of the said Railway quarter in his name (Annexure A-4) as he was living with his father till death. The representation which was filed on 27.1.86 (Annexure A-4) remained pending with the respondents and ultimately on 29.10.1990 (Annexure A-1), the representation was rejected on the ground that there was delay in the appointment of the applicant after the death of his father. It is needless to point that this representation remained pending with the respondents for more than 4 years and the applicant remained constantly in possession of the said quarter in which his late father lived.

3. The respondents in their return have opposed the contents of the O.A. and contended that at the time of the death of his father, the applicant was a minor, but passed his matriculation examination on 24.9.84. According to the respondents, the applicant was selected for the post of Booking Clerk on 5.11.85 and was, after training, posted as Booking Clerk on 26.1.86 at New Delhi. They oppose the prayer of the applicant on the ground that the applicant was in unauthorised occupation of the said quarter for a long time and filed the application for regularisation after

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a long lapse of time. The respondents supported the impugned order and, inter alia, contended that the O.A. should be dismissed with costs.

4. We have heard the learned counsel for both the sides. The learned counsel for the applicant drew our attention to the case of Miss Pinki Rani vs. U.O.I. & Others (S.L.J. 1987(4) p.356), a Bench decision of the Principal Bench delivered on 13.3.87. A similar question arose in Miss Pinki Rani's case where the respondents opposed the regularisation of quarter on the ground that Railway Board's directions call for the condition that the compassionate appointment should be made within 12 months from the date of the deceased father. It was decided that if the time gap between the date of the employee's death and the securing of the appointment goes even beyond 12 months, then this delay shall not stand in the way of the allotment of the quarter to the son of the deceased who has been appointed on compassionate grounds as an employee of the department. It has further been held that if the son or the daughter had been sharing the accommodation with the deceased father for six months before the death, then the condition for the regularisation in favour of the deceased employee's child is specific. We lay reliance on this Bench's decision and unhesitatingly reject the contentions of the respondents that there was delay in the appointment of the applicant and hence the rejection of the representation is justified. Annexure A-1 is a document by which the applicant is aggrieved. This letter issued by the respondents has rejected the request for regularisation on the ground of delay in the appointment of the applicant. Annexure A-5 is the

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Railway Board's letter which directs that the Railway servant who was allotted Railway accommodation retires from service or dies in service, then his son, daughter, wife or father may be allotted Railway accommodation on out of turn basis provided that the said relation is a Railway servant eligible for Railway accommodation and had been sharing with the deceased Railway servant for at least six months before the date of his death. This letter further clarifies that the Railway Board's letter applies only to those who are in the regular employment of the Railway Department after the death of the deceased Railway employee. The casual labour and the substitutes with or without temporary status are excluded from the purview of the Railway Board's letter.

5. It has to be noted that when the father of the applicant died in harness, then the applicant was a minor and was appearing in the matriculation examination. When his results came out and he succeeded, then he was appointed a Railway employee on 20.9.85 vide Annexure A-3 after the applicant completed the prescribed training period. When the applicant has been ⁱⁿ regular employment by the respondents in the Department on a regular basis after the death of his father, then there seems to be no difficulty in allotting the same quarter in the name of the applicant when he fulfills all other conditions.

6. We, therefore, allow this O.A. and direct the respondents to regularise quarter No. C-13/B, Railway Colony, Lajpat Nagar, New Delhi, in the name of the applicant from the date of his appointment. Due to the interim order, the applicant is still in possession of the said premises. The applicant shall be liable to pay licence fee etc. according to rules from the date of his appointment as Booking

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Clerk i.e. from 20.9.1985. The parties shall bear their own costs.

Clerk 20/9/85
(P.C. JAIN)
MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN (J)