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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-273/90

Date of decision: 28.2.1992

Shri Ved Pankash

.... Applicant

Versus

Union of India through
General Manager,
Northern Railway & Anr.

.... Respondents

For the Applicant

.... Shri Umesh Mishra, Advocate

For the Respondents

.... Shri O.N. Moolri, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant is the son of Shri Khushi Ram who retired from Railway service on 30.6.1981. He is praying for directing the respondents to regularise in his name Quarter No. 189/B-1, Railway Colony, Paharganj, New Delhi, which had been allotted to his father.

2. The applicant had... earlier, filed OA-1459/88 seeking the same relief. OA-1459/88 was disposed of by judgement

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dated 29.9.1989 directing the respondents to dispose of his request for regularisation of the quarter in question in view of the allotment made in a similar case of Shri Bhupan Chand, Gang Khalasi. The respondents were directed to do so within a period of two months from the date of receipt of the order.

3. In the present application, the applicant has stated that the respondents have, by their order dated 22.1.1990, rejected his request for regularisation of the quarter in question. The case of the applicant is that he joined the service of the Railways as Khalasi on 15.3.1979 and that he has acquired the temporary status. This has been admitted by the respondents in their counter-affidavit. The case of the respondents is that he is not a regular Railway servant.

4. The applicant has been staying with his father. He had been sharing the railway quarter with his father since his birth. According to him, railway quarters have been regularised in the names of persons similarly situated like him. He has mentioned the name of Shri Bhupan Chand in whose name railway quarter No. 186/B-1, Paharganj, was regularised and of Shri Laxman, in whose name railway quarter No. 14/L at Basant Lane, was regularised. They too were the railway employees who had acquired only

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temporary status.

5. The respondents have contended that the applicant is not entitled to the relief prayed for. According to them, the application is barred by res judicata. On merits, they have stated that the applicant is not eligible for regularisation of the railway quarter in question in his name.

6. We have carefully gone through the records of the case and have considered the rival contentions. In our opinion, a railway employee who has acquired temporary status, should also be considered for regularisation in terms of the circular dated 16.2.1989 issued by the General Manager, Northern Railway. In the instant case, the bar of res judicata would not apply as the Tribunal had stated in its judgement dated 29.9.1989 that the respondents should dispose of his request for regularisation, particularly in view of the allotment made in the case of Shri Bhupan Chand. While rejecting his request, the respondents have not given any reasons in their letter dated 22.1.1990. The consideration should be fair and not arbitrary. The respondents have not stated as to how the case of Shri Bhupan Chand stands on a different footing.

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7. In the facts and circumstances of the case, we allow the application and direct the respondents to regularise Quarter No. 189/B-1, Railway Colony, Paharganj, in the name of the applicant in the same manner as was done in the case of Shri Bhupan Chand. The applicant is also directed to refund to the respondents the H.R.A. drawn by him, if any. Both the parties shall comply with the aforesaid directions within a period of three months from the date of receipt of this order. The interim order passed on 15.2.1990, is hereby made absolute.

There will be no order as to costs.

(Signature)
28/2/92
(D.K. Chakravorty)
Administrative Member

(Signature)
28/2/92
(P.K. Kartha)
Vice-Chairman (Judl.)