

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 281/90

DECIDED ON : 24.5.1993,

ATMA RAM & ANR.

...

APPLICANTS

VS.

UNION OF INDIA & ORS.

...

RESPONDENTS

CORAM :

THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri B. S. Mainee, Counsel for the Applicant
Shri P. S. Mahendru, Counsel for the Respondents

J U D G M E N T

In this joint application, both the applicants, Shri Atma Ram (applicant No.1) and Shri Gurdass Sethi (applicant No.2), who are father and son, have prayed that Railway quarter No. 165/6, Railway Colony, Kishan Ganj, Delhi, be directed to be regularised in favour of applicant No.2.

2. At the time of his retirement from the office of Superintendent, printing & Stationery, Shakur Basti, on 31.8.1989, applicant No.1 was in occupation of quarter No. 165/6, Railway Colony, Kishan Ganj, Delhi ^{by} allotted to him. His son, applicant No.2, who had been appointed as casual labour with the Railways on 4.2.1981 ^{by} and ~~who~~ had been living with him from 2.5.1985 onwards with the permission of the respondents in terms of their letter dated 26.5.1989. Applicant No.2 was not drawing house rent allowance since 2.5.1985. In August, 1989, the ^{by} applicants requested for regularisation of this quarter in

favour of applicant No.2. The respondents issued a notice on 23.1.1990 for vacation of this quarter and payment of damages. The applicants have pointed out that in similar circumstances a Railway quarter has been regularised in favour of one Shri Bhuvan Chand, Gang Khalasi, on the basis of his having temporary status.

3. On 16.2.1990 the Tribunal issued an interim order directing the respondents not to evict the applicants from quarter No. 165/6, Railway Colony, Kishan Ganj, Delhi. This order has continued till date.

4. The main contention of the respondents is that the facility of regularisation of quarters in the name of wards of retiring Railway servants is confined to only the regular employees and the casual labourer or substitutes, with or without temporary status, are excluded from the purview of the said order. They have also pointed out that the applicant No.2 is entitled to Type-I quarter while the quarter allotted to applicant No.1 is type-II. The applicant No.1 was granted permission to retain the quarter after his retirement from 1.9.1989 to 31.12.1989 on normal rent. Thereafter, there was no request from him for any extension.

5. I have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the respondents has relied on the Railway Board's circular dated 3.2.1989 which clarifies that though the casual labour and substitutes with temporary

status are eligible for allotment of Railway quarters under normal rules, they are not entitled to out-of-turn allotment as wards of retired or deceased Railway employees. He has also cited the judgment of another Bench of this Tribunal dated 26.8.1991 in O.A. No. 724/91, Kailash Chand vs. Union of India & Ors. wherein it was held that since the averment made in the application that the son of retiring father was employed as a regular/permanent employee was not found to be correct, he could not claim regularisation in his favour. As pointed out by the learned counsel for the applicant, this issue has been discussed in a recent judgment of a Bench of this Tribunal dated 20.5.1992 in OA 542/92, Tilak Raj & Anr. vs. Union of India & Ors. A reference was made to the circular of Railway Board dated 15.1.1990, relevant portions of which are extracted below :-

"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 also 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."

6. It was also mentioned that para 25.11 of the Indian Railway Establishment Manual (IREM for short) 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

IREM. It was held that "temporary status holders are entitled to regularisation of quarter on the retirement of father because they are entitled to allotment of quarter in terms of rule 25.11 of the Indian Railway Establishment Manual."

7. In this case applicant No.2 had acquired temporary status and was living with his father (applicant No.1) with the permission of the authorities for more than six months before the retirement of applicant No.1. Following the ratio of the abovementioned judgment of another Bench of this Tribunal, we allow this O.A. The respondents are directed to regularise quarter No. 165/6, Railway Colony, Kishan Ganj, Delhi with utmost expedition and preferably within a period of three months from the date of receipt of a copy of this order, in favour of applicant No.2 w.e.f. 1.1.1990, that is, the date on which the extension granted to applicant No.2 expired. The applicant shall be liable to pay normal licence fee as per extant rules. The parties shall bear their own costs.

as
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B. N. Dhouliyal
(B. N. Dhouliyal) 24/5/93
Member (A)