

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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Regn.No. RA-185/92 In Date of decision: 27.11.1992.
OA-135/90

Shri Panjab Singh & Anr. Petitioners

Versus

Union of India & Anr. Respondents

For the Petitioners Shri Umesh Misra, Advocate

For the Respondents Shri D.N. Moolri, Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. To be referred to the Reporters or not? *no*

JUDGMENT

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

The petitioner in this R.A. is the original applicant in OA-135/90 which was disposed of by judgement dated 28.2.92. The first applicant, who had worked in the Office of the respondents as a Peon/Jamadar, had retired on 31.1.1988. Applicant No.2, who is his son, joined service of the respondents as Electrical Khalasi on 18.9.1990. His father had been allotted Government accommodation at Quarter No. 184-B/4, Railway Colony, Pahar Ganj, New Delhi, in which

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he had been staying after seeking and obtaining sharing permission from the respondents w.e.f. 3.11.1986. The request of applicant No.2 for regularising the said quarter in his name after the retirement of his father, had not been acceded to. He has not been drawing House Rent Allowance.

2. After going through the records of the case and considering the rival contentions, the Tribunal found no merit in the application and the same was dismissed. The interim order passed on 25.1.1990, directing the respondents not to dispossess the applicants of the Government accommodation, was also vacated.

3. The petitioner has stated in the present petition that the applicant No.2 fulfilled the conditions for allotment of Government accommodation ^{on a} 'out of turn' basis as is admissible to the wards of Railway servants who have retired from Government service. He has relied upon the judgement of this Tribunal in Shiv Ram Bali Ram Shirsath Vs. Union of India, 1988 (3) SLJ (CAT) 289, and in Harinder Singh Vs. Union of India & Others, 1990 (1) ATLT. (CAT) 141. He has also relied upon the judgement of this Tribunal dated 19.2.1992 in GA-184/90 (Ganga Ram and Another Vs. Union of India and Others).

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4. We have gone through the records of the case and have heard the learned counsel for both the parties. According to the instructions issued by the Railway Board, on retirement of ^a Railway servant, his quarter may be allotted to his serving son/daughter 'out of turn' provided the said relation fulfils the following conditions:-

- (i) The said relation is a Railway servant;
- (ii) He/she had been sharing accommodation with the retiring or deceased Railway servant for at least six months before the date of retirement or death;
- (iii) No 'out of turn' allotment of accommodation is made to any such person if he had been drawing House Rent Allowance suppressing the fact that he was sharing the accommodation allotted to his father; and
- (iv) the scope of these orders is to be confined to such of the wards as are regular employees and that the casual labourers and substitutes with or without temporary status, are excluded from the purview of this order.

5. In the instant case, the Tribunal, in its judgement dated 28.2.1992, took note of the fact that sharing permission

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was given by order dated 4.8.1987, whereas the father of the applicant No.2 retired from service on 31.1.1988. The period of six months prescribed under the instructions, is short by 4 days. In view of this, the Tribunal held that the condition that the dependent should be a Railway servant six months before the retirement of his father, has not been fulfilled.

6. The learned counsel for the petitioner submitted that the petitioner fulfils all the conditions prescribed by the Railway Board in its instructions, mentioned above. The Tribunal has held in Harinder Singh's case, mentioned above, that the condition regarding sharing of accommodation for six months is not mandatory. It was observed that it will be a narrow and technical interpretation of the rules if the question of sharing is stretched to include that six months' period should have been as a Government servant and that specific permission should have been given although once the House Rent Allowance has not been paid to the applicant, such permission can also be presumed. To the same effect is the judgement of this Tribunal in Shiv Ram's case, mentioned above.

7. After hearing the contentions of both sides, we are of the view that this is a fit case in which the judgement of the Tribunal dated 28.2.1992 should be reviewed. We,

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therefore, recall our judgement dated 28.2.1992, allow the review petition and hold that the applicant No.2 is entitled to the regularisation of Quarter No.184-B/4, Railway Colony, Pahar Ganj, New Delhi, in his favour. We order and direct accordingly. The respondents shall comply with the above directions expeditiously.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 27/11/92
Administrative Member

P.K. Kartha
27/11/92
(P.K. Kartha)
Vice-Chairman(Judl.)