

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
\* \* \* \*

O.A. NO. 2367/1991

DATE OF DECISION : 17.01.1992

SHRI AJAY PARVEEN

...APPLICANT

VS.

UNION OF INDIA & ANR.

...RESPONDENTS

CORAM

SHRI I.K. RASGOTRA, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI S.K. SAWHNEY

FOR THE RESPONDENTS

...SHRI R.L. DHAWAN

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985, aggrieved by the order dt. 24.1.1991 (Annexure A1) whereby the respondents have turned down his request to regularise the quarter No.185/B-4, Railway Colony, Pahar Ganj, New Delhi because the applicant is not a screened employee.

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2. The applicant claimed the relief that the respondents be directed to regularise Railway Quarter No.185/B-4, Railway Colony, Pahar Ganj, New Delhi in the name of the applicant or make out of turn allotment of the said quarter; (b) Direct the respondents to charge normal rent for the said quarter w.e.f. 1.6.1990 after the retirement of the father of the applicant on 31.5.1990 and (c) Direct the respondents to allow the applicant to retain the said quarter till the time the said quarter is regularised/allotted.

3. The brief facts of the case are that the applicant's father Shri Uttam Singh was a permanent Head Clerk under PWI, Northern Railway, New Delhi and during the course of his active service was allotted Railway Quarter No.185/B-4, Railway Colony, Pahar Ganj, New Delhi. The applicant's father, Shri Uttam Singh <sup>the</sup> retired on reaching age of superannuation on 31.5.1990. Before the applicant's father retired, the applicant was already appointed as a casual labourer on 4.5.1988, i.e., about 2 years before the date of superannuation of his father. The applicant was also screened by the competent board in January, 1989. Since 29.10.1988, the applicant has been sharing the accommodation with his father and also obtained a sharing permission by the order of even date and has not been paid HRA. The applicant

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moved for allotment of the said Railway quarter in his name by moving a petition to the respondents on 26.7.1990 (Annexure A3). The respondents did not regularise/allot quarter in the name of the applicant and rather informed him that since he is not a regular employee, the said quarter cannot be allotted to him.

4. The applicant in the application has taken a number of grounds, inter-alia, that the applicant has been sharing accommodation <sup>for</sup> more than six months prior to the date of retirement of his father; the applicant has not been paid HRA since 29.10.1988; that the applicant is a regular employee and has been working in a permanent vacancy as considered by the respondents in the letter dt. 20.11.1990 (Annexure A5).

5. The respondents contested the application and the basic objection of the respondents is that the applicant is not eligible for out of turn allotment of Railway Quarter in terms of Railway Board's extant instructions and the action of the respondents, turning down his request for out of turn allotment of Railway Quarter is perfectly legal. The respondents have placed reliance on the Railway Board's letter dt. 29.8.1986 (Annexure R-1 to the counter) and to

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the Railway Board's letter dt. 3.2.1989 (Annexure R2 to the counter). It is further added by the respondents in their reply that since the applicant is working as a substitute C & W Safaiwala, he as a ward of a retired employee, is not eligible for out of turn allotment of Government quarter. It is further stated that the Railway quarter was allotted to his father while he was in service. After his retirement on 31.5.1990, permission was granted to him for retaining the quarter for a period of eight months as per extant rules. The retention of the quarter by the father of the applicant beyond the permissible period is unauthorised and accordingly, the orders for vacation of the quarter have correctly been issued.

6. We have heard the learned counsel of the parties at length and have gone through the record of the case. The learned counsel for the applicant relied on para 1501 of IREM and on the Board's Circular No.E(G) 85 Qr. 1-9 dt. 15.1.1990. This <sup>said</sup> circular deals with regularisation/allotment of Railway Quarter in the name of an eligible dependent of Railway employee, who

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circular  
retires from or dies while in service. This / is in  
supersession of earlier circular issued by the Railway  
Board. Para-2 of the circular is important, which  
is reproduced 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  
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."

The circular quoted above of January, 1990 is a  
complete answer to the objection taken by the  
respondents. Though the circular of the Railway  
Board dt. 29.8.1986 and 22.12.1988 are not specifically  
referred to (Annexures R1 and R2) in the circular of  
January, 1990 quoted above. A Railway servant who is  
a casual labourer and obtained quasi permanent status  
by working for a number of years and has also been  
screened becomes eligible/particularly in the light  
of the admission of the respondents in their letter  
dt. 20.11.1990 (Annexure A5). In this letter, it is

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stated that the applicant is a regular employee and is working against permanent vacancy since 29.10.1988 and has not been paid HRA. It is also admitted in that letter that the applicant has already been screened in January, 1989. In view of the above, if the result of the screening has not been declared which has taken place as early as in January, 1989, the applicant is not to be thrown out of consideration for out of turn allotment on the basis of the circular of the Railway Board of January, 1990 referred to above. In the counter in para 4.8, the respondents have also admitted that the applicant is working against the permanent vacancy and that he has not drawn HRA since 29.10.1988. It is also admitted to the respondents that the applicant has been granted a sharing permission along with his father by the order of even date.

7. In view of the above discussion, we find that the present application is to be allowed and the impugned order rejecting his prayer for out of turn allotment is to be quashed.

8. The application is allowed. The impugned order dt. 24.1.1991 is quashed and set aside and the respondents

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are directed to allot the said quarter No.185/B-4, Railway Colony, Pahar Ganj, New Delhi in favour of the applicant and also to charge licence fee etc. as per extant rules. In the circumstances, the parties to bear their own costs.

*J.P. Sharma*  
(J.P. SHARMA)

MEMBER (J) 17.1.92

*I.K. Rasgotra*  
(I.K. RASGOTRA)

MEMBER (A)