

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

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O.A. NO.369/92

DATE OF DECISION : 08.01.1993

Shri Suraj Ram
Vs.

...Applicant

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri G.D. Bhandari

For the Respondents

...Shri P.S. Mahendru

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

JUDGMENT

The applicant is the son of late Shri Jagat Ram, who worked as Trolley Man under PWI Hazrat Nizamuddin and was allottee of Quarter No.28/D-II Railway Colony, Jungpura B, Nizamuddin, New Delhi. His father died in harness on 14.3.1983.

The applicant was offered the appointment on compassionate ground and was appointed as Hospital Attendant at Delhi Main Divisional Hospital w.e.f. 28.8.1991. Since the date of the appointment, the applicant is not drawing any HRA. After the applicant got the job, he requested the DRM, Northern Railway to regularise the said quarter in his name and by the order dt.2.1.1992, the request of the applicant was not entertained, and the matter of the applicant, Smt.Chandra Davi was informed that the quarter cannot be regularised in the name of the son as she is occupying and retaining the quarter in an unauthorised manner after the death of her husband.

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A notice dt.23.1.1992 to evict the said quarter was also served on the widow, Smt.Chandra Devi. The applicant has prayed for the grant of the relief that the applicant and his mother be not evicted from the Railway Quarter No.28/D-II Railway Colony, Jungpura-B, Nizamuddin and the applicant ^{who} was employed on compassionate ground, may please be allotted the said quarter in his name. It is further prayed that the eviction notice (Annexure A1) issued by respondent No.3 be withdrawn and the respondents be directed to regularise the said quarter in the name of the son or allot any alternative accommodation to which the applicant is entitled. The applicant has also filed MP 2530/92 by which he has filed certain documents. No reply has been filed to the MP. The documents filed by the applicant have been taken on record.

2. The respondents contested the application and opposed the grant of the relief to the applicant regarding regularisation of the quarter in the name of the son. The fact that the father of the applicant died in harness has also been disputed regarding the regularisation of the quarter in the name of the applicant. It is stated that since the applicant was not a Railway servant on the day of the death of his father, so the applicant and his mother are unauthorised occupants of the Railway quarter and are liable to vacate the same besides paying the penal rent/damages for use and occupation thereof. Since the mother of the applicant did not vacate the quarter, so

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a notice was issued on 23.1.1992 under Section 190 of Indian Railway Act, 1989. The case of the respondents is that the applicant is not entitled to regularisation of the quarter in view of the circular of the Railway Board dt.15.1.1990 (Annexure R1). Para-2 of this circular lays down as follows :-

"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."

3. The applicant has filed the rejoinder, reiterating the averments taken in the application.
4. I have heard the learned counsel for the parties at length and have gone through the record of the case. Shri Jagat Ram died on 14.3.1983 and under relevant Railway circular, the family had to vacate the said Railway quarter within four months/ six months from the date of the death. However, they did not vacate the same. The additional documents filed by the applicant go to show that Smt.Chandra Devi, the widow of the deceased employee was appointed as a Casual Labour Khallasi in the vacancy of her husband and this is by the order dt.15.9.1983 (Annexure A1). She has also applied for the retention of the Railway quarter by her application dt.31.2.1983 (Annexure A2). In that, she has only prayed that she be allowed to retain the

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said Railway quarter for a period of four months. It was now in the year 1988 that Shri Suraj Ram, son of the deceased Railway employee applied for appointment in place of his mother. The mother of the applicant also requested for appointment of her son, who was minor at the time of the death of his father. She has also stated that she is working as Casual Khallasi since 17.9.1983. The applicant was informed again on 6.3.1989 by DRM Office, Northern Railway that he can approach after attaining the age of 18 years for appointment on compassionate ground. By the Confidential Memo dt.27.7.1990 it appears that the widow, Smt. Chandra Devi was registered for appointment on compassionate ground in Class-IV on 22.9.1983, but she could not be called for selection due to non-availability of vacancy. She was, however, engaged as Seasonal Water Woman in hot weather establishment. It appears that finally, by the order dt.16.1.1991, the applicant, Shri Suraj Ram Yadav has been recommended for appointment on compassionate ground after relaxation of 5 years' time limit in Class-IV. It is only after this that in September, 1991, the applicant applied for regularisation of the Railway quarter. From a perusal of the record, it appears that the applicant could not retain in an unauthorised manner along with his mother the Railway quarter nor any rule or any other instructions of the Railway Board has been cited by the learned counsel for the applicant to show that the family of the deceased

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could retain the Railway quarter till the appointment of the applicant. This is, therefore, a clear case of unauthorised occupation or retention of the Railway accommodation by the applicant. The applicant's ^{father} died in 1983 and at that time, the widow of the ^{deceased employee} applicant was given a casual employment, but she did not continue in the same on the ground that she wanted her son to be given a compassionate appointment in her place. The General Manager (P) accorded necessary sanction of relaxation of 5 years' time limit and allowed the applicant to be given compassionate appointment, though the mother of the applicant was also earlier appointed as Khallasi on casual basis. She was also not called for selection because there was no vacancy upto 1986 and after that the widow prayed that her son be appointed.

5. It is not on record how the widow was allowed to retain the said accommodation as to whether she was allowed to retain the Railway quarter, while she was given an appointment on casual basis. There is no averment also in this regard in this application. The claim of the applicant is solely based on the ground that since he has been given compassionate appointment, so the quarter allotted to his deceased father be also regularised in his name. No other circumstance has been pointed out. The case of the applicant is not covered by the circular of the Railway Board dt.15.1.1990. Since the appointment has been given to the applicant after relaxation of 5 years, so he can only be considered for out of turn allotment of an eligible type of quarter and he has no case for regularisation of the present quarter in his name.

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6. In this case, the notice has been issued to the widow under Section 190 of the Indian Railway Act and the widow is not a party to the present proceedings. Hence the validity of the notice cannot be judged in this case. However, also the applicant cannot assail the said notice because it is not in his name. Earlier to this, the applicant was minor when he was living with his mother. The applicant has only applied for the regularisation of the quarter in September, 1991 while the notice covers a period after the death of the applicant's father. The mother of the applicant only sought permission to retain the quarter for four months and she never applied for regularisation of the quarter in her name when she was given a job of Khallasi on casual basis after the death of her husband. The applicant, therefore, cannot be granted any relief on that account.

7. In view of the above facts and circumstances, the present application is partly allowed with the direction to the respondents to register the name of the applicant in the priority list in case of such other compassionate appointees and allot eligible type of quarter to the applicant on out of turn basis. The other reliefs claimed by the applicant in this application are disallowed. In the circumstances, the parties shall bear their own costs.

J.P. Sharma
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MEMBER (J)