

IN THE CENTRL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

(13)

Regn. No. OA 542/92

Date of decision 20.5.92

Tilak Raj & Another

Applicants

Shri B.S. Mainee,

Counsel for the applicants

vs.

Union of India & Ors.

Respondents

Shri R.L. Dhawan

Counsel for the respondents

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The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. LP. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not? Yes.

3. Whether their Lordships wish to see the fair copy of the judgment?

4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal singh, Vice-Chairman (J).)

J U D G M E N T

After obtaining leave for filing this O.A. jointly, both the applicants, who are father and son, had filed this O.A., praying for the relief that quarter No. 12/5, Railway Colony, Sarojini Nagar, New Delhi, be directed to be regularised in favour of applicant No. 1.

2. The father, applicant No. 2, who was an employee of the Railways, was allotted quarter No. 12/5, Railway Colony, Sarojini Nagar, and he remained there continuously with his family. Applicant No. 2 retired on 30.11.91 from service. His son, applicant No. 1, was engaged as a casual labour in June 1981 and was given temporary status from 1.1.86 and since then, he has been continuously working in the Stores Branch under Deputy Chief Engineer (C), Patel Nagar.



New Delhi. Applicant No. 1 was living alongwith his father in the said quarter after obtaining sharing permission of the competent authority granted on 30.3.87 (Annex. A-3). Applicant No. 1 contends that as he has been given temporary status with effect from 1.1.86, he is entitled to all the benefits admissible to temporary railway servants, including allotment of railway quarters, under Rule 2511 of the Railway Establishment Manual. Before retirement, applicant No. 2 made a representation to respondents on 22.11.91 requesting for regularisation of the said quarter in the name of Applicant No. 1 and Applicant No. 1 also submitted an application for regularisation of the quarter. Applicant No. 1 was also not drawing any house rent allowance since 1.3.86 and he was working against work charged post. He contends that according to rules of 1966 and 1969, on retirement of the railway servant, his quarter may be allotted to his serving son/daughter out-of-turn provided such son/daughter is eligible for Railway accommodation and had been sharing accommodation with the retired railway servant for at least a period of six months before the date of retirement. On the strength of these provisions, the applicant contends that he is eligible for accommodation and that he has been sharing the accommodation with his father (Applicant No. 2) for at least six months before the date of his retirement. He also contends that he is also eligible for the type of residence which he wants to be regularised.

3. Respondents on notice appeared and opposed the prayer contained in this O.A. and contended that though the applicant has acquired a temporary status; though he has been sharing accommodation with his father after obtaining permission of the competent authority, yet he should not be allotted the quarter out-of-turn. Respondents also placed their reliance upon the Office Memo dated 15.3.91, according to which the quarter cannot be regularised in his name.

4. We have heard both the counsels, Shri B.S. Mainee for the applicant and Shri R.L. Dhawan for the respondents.

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5. Shri Mainee placed reliance in the judgment of Man Mohan Singh delivered on 10.1.92 in OA 1015/1987. According to him, the exact situation had arisen in this case and hence applicant No. 1 is eligible for regularisation and the O.A. should be allowed. Shri R.L. Dhawan, placing reliance upon the judgment of Kailash Chand in OA 724/91 delivered on 26.8.91, contends that he places reliance upon this judgment. We have perused both the judgments. Unfortunately, Kailash Chand's judgment was delivered in a case where the applicant had been screened but his result was not declared. That is why, in Kailash Chand (supra), the quarter was not directed to be regularised in favour of the applicant on out-of-turn basis. Thus, the facts and circumstances in this case do not appear to be same as the one in hand because, admittedly, the applicant after acquiring the temporary status was screened and was declared successful. This fact is also admitted by the respondents in their return. In such a situation, Kailash Chand's (supra) judgment is not applicable in this case. We, therefore, place our reliance in the Bench judgment of Man Mohan Singh in O.A.No. 1015/1987. According to para 2 of the circular of the Railway Board dated 15.1.90, it is laid down that:-

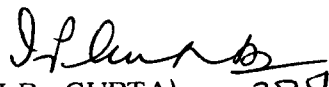
"When a Railway employee who has been allotted Railway accommodation retires from service or dies while in service, his/her son, daughter, wife, husband or father may be allotted railway accommodation on out of turn basis provided that the said relation was a railway employee eligible also for railway 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."

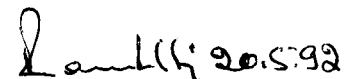
6. Para 25.11 of the Indian Railway Establishment Manual provides that casual labourers treated as temporary are entitled to all the rights and privileges admissible to temporary Railway servants as laid down in Chapter XXIII of the Indian Railway Establishment Manual. The rights and privileges admissible to such labourers also include the benefits of discipline and appeal rules. Temporary status holders are entitled to regularisation of quarter on the retirement of father because they are entitled to allotment of quarters in terms

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of Rule 2511 of the Indian Railway Establishment Manual. The applicant thus appears to be eligible because he is eligible to out-of-turn allotment of the quarter in which the father lives because he has acquired a temporary status; because he is sharing the accommodation with his father after obtaining due permission for at least six months before the retirement of the father. In such a situation, we allow this O.A. and the respondents are directed to regularise quarter No. 12/5, Railway Colony, Sarojini Nagar, New Delhi, as early as possible, preferably within a period of three months from the date of receipt of a copy of this order, in favour of applicant No. 1 and the applicant shall pay the licence fee etc. as per extant rules. The parties shall bear their own costs.

  
(L.P. GUPTA) 20/5/92  
MEMBER (A)

  
(RAM PAL SINGH)  
VICE-CHAIRMAN (J)