

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



O.A. No.865/92

12.11.1992

Shri Intijar Ali

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM :

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

For the Applicant ...Shri B.S. Mainee

For the Respondents ...Shri K.K. Patel

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

2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

Shri Intijar Ali, the applicant is the son of Shri Rafiq Ahmed, who was also a Railway employee and died in harness while working as Assistant Cook under Chief Inspector, Catering on 6.10.1989. When he was in active service with the respondents, he was allotted a Railway quarter No.176-B/1

Railway Colony, Basant Lane, Pahar Ganj. He was supporting ^{family members.} ~~the applicant~~ ^{family members.} ~~him~~ who was also putting up with him including the ~~applicant~~.

On the death of his father, Shri Intijar Ali applied for compassionate appointment to the respondents on 23.11.1989 (Annexure A3). The respondents, however, could not dispose of his representation, rather issued a notice for eviction for retention of the allotted Railway quarter beyond the period of six months by the family of the deceased employee. Eviction order appears to have been passed sometimes in February, 1992.

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Before the said order of eviction was passed, the present application was filed on 27.3.1992. In this application, the applicant has assailed the order dt.17.5.1991 which is a notice under Section 190 of the Railway Act, 1989. The applicant in this application has prayed that he should be given compassionate appointment as per the Extant Rules and further that the said quarter No.176-B/1 Railway Colony, Basant Lane be allotted to him on compassionate ground.

The respondents contested the application by filing the reply on 25.9.1992. It is admitted to the respondents that the Railway employee, late Shri Rafiq Ahmed died in harness who was in occupation of the Railway quarter NO.176-B/1 Railway Colony, Basant Lane. However, the family of the deceased did not vacate the Railway quarter by 6.4.1990, so the impugned notice was given to the applicant for vacation of the Railway quartr and an order of eviction has already been passed by the Railway Magistrate on 12.2.1992. However, it is further stated in the reply that the appointment on compassionate ground has been approved to the applicant by the order dt. 30.3.1992.

The applicant appears to have filed an MP 1369/92 on 7.5.1992 whereby para-1 of the earlier application was sought to be amended whereby the challenge has also been made to the order of evictiion dt.12.2.1992 passed by Special Railway Magistrate, Delhi. Thus the challenge in this application is

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both to the notice dt. 17.5.1991 as well as the order of eviction dt. 12.2.1992. While the earlier application was entertained, an order was passed on 30.3.1992 giving an interim direction to the respondents that status-quo as existing on that date be maintained and that order is continuing till today.

The controversy now rests between the parties is not with respect to the compassionate appointment, which has already been given to the applicant. The learned counsel for the applicant, therefore, pressed that since the applicant has been given compassionate appointment as per the Extant Rules, so a direction be issued to the respondents to regularise/allot eligible type of quarter to the applicant on compassionate ground, as laid down in the Railway Board's Circular dt. 15.1.1990. Para-2 of the said circular lays down that the respondents shall give out of turn allotment to a retiree Railway employee on certain conditions as well as to those, who die in harness and get compassionate appointment.

The learned counsel for the respondents has argued clearly on the basis of the averment made in para-3 of the counter that the matter of compassionate ~~appointment~~ allotment in the case of the applicant is being considered by the respondents and the applicant himself did not exhaust the departmental remedies as he did not make any representation or request for allotment of the quarter on compassionate ground. The querry

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was put to the learned counsel for the applicant as to whether any representation has been made regarding out of turn allotment as per Extant Rules, but it is stated that since the matter had already been pending with the Tribunal in the present O.A., so by virtue of Rule 19(4) no fresh representation could be made.

The learned counsel for the applicant also argued that he is prepared to apply for the same even now provided a direction is issued to the respondents to consider his case favourably as per Extant Rules. The learned counsel for the respondents, therefore, does not contest the matter any further on this issue stating that the matter shall be considered by the respondents in the light of the Extant Rules.

The application is, therefore, disposed of with the direction to the respondents to consider favourably the case of the applicant for out of turn allotment/regularisation of the said quarter. The applicant shall fill up all the necessary formalities required in this respect and the respondents shall consider his case in the light of the Extant Rules within a period of three months from the date of receipt of a copy of this order. In case the applicant is still aggrieved, he can assail the same order subject to the law of limitation. In the circumstances, the parties shall bear their own costs. The order of eviction dt. 12.2.1992, in the

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circumstances of the case, becomes redundant. The applicant
shall not be evicted till ^{of only turn allotment} ~~this case~~ is finally decided, as
directed above. 6

J. P. Sharma

(J.P. SHARMA)
MEMBER (J)
12.11.1992