

4.8.93

DA-141/93

Judgment (oral)

(X)

Present:- Shri S.K. Sawhney, Counsel for the Applicant  
Shri Romesh Gautam, Counsel for the Respondents.

The applicant is the son of Shri <sup>Bishamber</sup> ~~xxxxxxx~~ who died in harness on 13.9.1987 and the applicant was offered compassionate appointment as Khalasi at Ghaziabad in Track Depot, Northern Railway. The grievance of the applicant is that his father, while in service, was allotted the Railway Quarter No.265/4, Railway Colony, Shakur Basti, and after the death of the employee, the family of the applicant continued to occupy the same quarter. The applicant has requested respondent No.2 to regularise the said quarter in his favour on compassionate grounds, but by the impugned letter dated 8.5.1992, he was informed that his request could not be acceded to. Aggrieved by the same, the applicant has filed the present application on 18.1.93, praying for the grant of the relief <sup>that</sup> ~~xxxx~~ a direction be issued to the respondents to regularise the railway quarter No.265/4, Railway Colony, in favour of the applicant from the date of his appointment, i.e., 8.1.88. It is also prayed that the DCRG due to the deceased employee, i.e., his father, be also paid. Notice was issued to the respondents <sup>who</sup> ~~xx~~ filed the reply and contested the grant of the relief prayed for.

2. The case of the respondents is that the applicant was working at Ghaziabad at the relevant time and the policy of the Headquarters does not permit the regularisation of a house in Delhi area if the employee is working at Ghaziabad. To support this fact, the respondents have annexed the policy letter dated 7.12.1983 (Annexure R-1).

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3. I heard the learned counsel for the parties at length and perused the records. During the course of the hearing, the learned counsel for the applicant did not press for the relief regarding payment of DCRG stating that the same has since been paid by the respondents. The only issue that survives for decision is whether the applicant is entitled to regularisation of the type of quarter at Shakur Basti which was earlier allotted to his late father while he was in service.

4. In fact, it is not disputed that the applicant is on the regular establishment of the respondents, the Railways. Under the relevant rules issued by the Railway Board, in master circular, a compassionate allotment on 'out of turn' basis is admissible to the ward of a deceased employee provided he is not getting H.R.A., he has lived with the deceased for six months before retirement/casualty, and that he is eligible for the same type of accommodation as occupied by the deceased. The only objection raised in the counter is that the policy of 83(R-1) does not permit the regularisation of a quarter at Delhi to a ward of a deceased employee working at Ghaziabad. The substance in this contention stands diluted when the respondents themselves allowed the applicant to retain the quarter and deducted normal licence fee from his salary. Moreover, the applicant has since been posted to Delhi under Central D.A.C., Track, Northern Railway, Shakur Basti. This sole objection to regularisation of the same quarter, therefore, cannot be sustained.

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5. It is not disputed that the quarter allotted to the deceased father is of the type to which the applicant is also entitled.

6. In view of the above facts and circumstances, we partly allow to regularise the quarter at Shakur Basti, Q.No.265/4, Railway Colony, in the name of the applicant from 8.1.1988 and only realise the prescribed licence fee under rules. The parties to bear their own costs.

*J. P. Sharma*  
(J. P. Sharma) 4.8.93  
Member(J)