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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No 1532/93

New Delhi this the 4th day of November, 1993.

HON'BLE MR P.T. THIRUVENGADAM, MEMBER (A)

Smt Mithlesh Bhatnagar,  
W/o Late Shri P.V. Bhatnagar,  
Working as Enquiry-cum-Reservation Clerk  
Station Supdt Nizammudin,  
Northern Railway, New Delhi.

Railway Quarter No. T-16, Railway Colony,  
Nizammudin, New Delhi.

...Applicant

(By Advocate Shri S.K. Sawhney)

Versus

1. Union of India through  
General Manager  
Northern Railway  
Barod House, New Delhi.
2. Divisional Superintending Engineer (Estates)  
Northern Railway, D.R.M Office  
Chelmsford Road,  
NEW DELHI.

.... Respondents

(By Advocate Shri P.S. Mahendru)

JUDGEMENT (ORAL)

(Hon'ble Mr. P.T. Thiruvengadam)

The applicant is a widow ~~of~~ whose husband died in service on 23.11.1989. The applicant was appointed as Enquiry <sup>cum</sup> and Reservation clerk on compassionate basis on 9.5.1990 (Annexure A.2). It is the case of the applicant that she applied for regularisation of quarter No.T-16, Railway Colony, Nizammuddin, New Delhi, which had been allotted to her husband vide her representation dated 16.6.1990. As per the applicant, this representation was followed by another letter dated 12.12.1991 by which time she had passed the requisite training course (T-12 Course) held from 16.7.91 to 8.11.91 vide letter dated 4.12.91 (Annexure A3). Copy of this representation was also marked to Uttariya Railway Mazdoor Union, who in turn, forwarded the same and recommended the case for

regularisation vide Union's letter dated 15.12.1991.

While the matter stood thus, the applicant was issued a letter dated 23.10.1992 directing her to vacate railway quarter within 10 days failing which eviction proceedings would be started against her. Immediately, the applicant vide her letter dated 19.12.92 represented that she had already submitted her request on 12.12.91 for regularisation of the said quarter in her name subsequent to her passing the requisite training course. She requested that eviction notice may be withdrawn. The department in its letter dt 14.7.93, finally, rejected the case of the applicant. This letter reads as under :-

"Your request regarding regularisation of Railway quarter No.T-16, NZM in your favour after the death of your husband late Shri P.V. Bhatnagar, expired on 23.11.89, has been examined by the competent authority and it is regretted in the light of GM/Engg:NDLS's letter No.290-W/18/1822/W.Qrs. dated 18.2.92.

Please vacate the above mentioned railway quarter immediately, otherwise eviction proceeding will be started against you."

2. This O.A. has been filed with a prayer for a direction to the respondents to allow the applicant to continue in possession of the Railway quarter and regularise the same in her name from the date of her appointment of 9.5.1990 and for charging normal rent from this date.

3. The learned counsel for the applicant argued that the letter dated 18.2.1992 quoted in the final rejection letter of the department is to have prospective effect

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only from 1.4.1992. The applicant having applied for regularisation first on 15.5.90 and again on 12.12.91 cannot be debarred for regularisation based on instructions dated 18.2.1992.

2. The learned counsel for the respondents mainly relied on letter of 18.2.1992 and argued that the applicant did not apply for regularisation of quarter within the period prescribed i.e. 3 months from the date of appointment. For cases which occurred prior to 1.4.92, the 3 months period for application for regularisation can at best count only from 1.4.92. In the counter, filed, it has been made out that the first time the department received the representation from the applicant was on 23.12.92, that is the date on which the recommendation of the local Union in its letter dt 15.12.91 was received by the department. At that time the case was already under process for eviction.

3. The issue to be considered is whether the applicant had applied in time. The case of the department is that the first application dated 16.6.90 alleged to have been sent by the applicant was never received. This was not even referred by the applicant in the subsequent representation and as such it cannot be accepted that any representation was ever made on 16.5.90. As regards the follow up representation dated 12.12.1991 which was also separately recommended by the Union in its letter dated 15.12.91, the claim of the department is that this letter was received only on 23.12.92. However, it is seen from the department's final rejection letter dt 14.7.93, reference to applicant's representation dt 8/92 has been made. Hence, the plea of the respondents that the first communication regarding regularisation was received only on 23.12.92 is not tenable. It is also difficult to accept

difficult to accept that even the Union's letter dated 15.12.91 was received after a lapse of more than a year. The basic issues involved are not disputed excepting with regard to the date of receipt of the representation with regard to regularisation. In a case like this where compassionate appointment was given within 6 months of the death of the husband and the husband had been allotted government accommodation, to deny regularisation based on instructions which had prospective application from a much later date would be unfair. In the circumstances of the case, it will be in the interest of justice if regularisation as sought for is allowed.

6. For the reasons as above, the respondents are directed to regularise the quarter No.T-60, Railway Colony, Nizamuddin, New Delhi, from the date of applicant's appointment on 9.5.1990 and also recover normal rent <sup>this</sup> ~~from~~ date. No costs.

P.T. T.V.C.

(P.T. THIRUVENGADAM)  
MEMBER (A)

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