

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.1930 of 1993.

New Delhi, the 5th Nov., 1993.

HON'BLE MR. B.N. DHUNDIYAL, MEMBER(A)

Shri Intzar Ali,
s/o Late Shri Rafiq Ahmad,
Safaiwala, Northern Rly,
Nizamuddin. Applicant
(by Advocate Sh.B.S.Mainee).

vs.

Union of India: Through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl.Rly.Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Estate Officer,
Northern Railway, DRM office,
Baroda House, New Delhi. ... Respondents.

(by Advocate Sh.K.K.Patel).

ORDER

The applicant is the son of late Shri Rafiq Ahmad, who died in harness while working as Assistant under the Chief Inspector (Catering) on 6.10.1989. He had been allotted quarter No.176-B/1, Basant Lane, Railway Colony, Paharganj, New Delhi. The applicant had been living with his father alongwith other family members. After the death of his father, the applicant filed O.A.No.865/92 for compassionate appointment and also for regularisation of the said quarter in his name. This application was

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disposed of with the direction to the respondents to consider favourably the case of the applicant for giving an out of turn allotment/regularisation of the said quarter. The respondents were directed to consider his case in the light of extant rules, within a period of three months. The Estate Officer(Respondent No.3) issued a letter to the Dy. Commissioner of Police(Central) Daryaganj, enclosing a copy of the order dated 9.7.1993 to evict the applicant and his family from the said quarter and take over the possession. The applicant claims that since he has been given appointment as Class-IV employee in Delhi, he is also entitled to the same type of quarter. He has prayed that the respondents be directed to regularise the quarter allotted to his father, in his favour.

2. A counter has been filed in which the main averments are these. The applicant was granted retention permission of the quarter for six months w.e.f.7.1.89 to 6.4.90. Thereafter, a notice was issued for his eviction. A surprise check in the prescribed manner was conducted on 12.10.1990 and it was found that the quarter was sub-letted by the applicant. A case was filed in the Court of Sub-Divisional Railway Magistrate, Delhi on 10-12-90. The Estate Officer passed an order of eviction and warrant of possession issued by the Sub Divisional Railway Magistrate, Delhi on 12.2.1992. This could not be executed as a status-quo order was issued by this Tribunal on 30.3.92. Another check was conducted on 9.12.1992 in collaboration of the representatives of the two Unions, i.e. NRMU and URMU and it was found that the said quarter was still sub-letted. The request for regularisation

of the quarter was rejected as the delay was on the employee's account and the quarter was sub-letted against the rules. The case of sub-letting of the Railway Quarter was filed in the Court of Estate Officer, DRM's Office, New Delhi on 23.3.1993. The learned counsel for the respondent stated at the Bar that this case has since been decided by the Estate Officer, he sought to file a copy of the relevant order vide MP No.2962/93 but did not press for consideration of this application. The M.P.No.2962/93 is, therefore, dismissed as 'not pressed'.

3. The learned counsel for the applicant has heavily relied on the judgment dated 13.3.1987 of this Tribunal in II(1987)ATLT Miss Pinki Rani vs. Union of India and others. In this case the applicant was a minor when her father passed away in 1978 and she was given appointment on compassionate ground in 1985. Her request for regularisation of the quarter, that was allotted to her father, was in her occupation when her mother, was allowed by the Tribunal even after a gap of seven years. The Tribunal found that the applicant was eligible for railway accommodation as she had been sharing accommodation with her deceased father for the prescribed period before his death and she was eligible for a higher type. On the other hand, the learned counsel for the respondents has relied on clarification issued by the Ministry of Railways on 12.2.1988

that the requests for regularisation of quarters in favour of the compassionate appointees should be considered by the Railway Administration only in cases where the compassionate appointments have been made within the prescribed period of 12 months and no special cases should be made out. In case, the compassionate appointee had remained in occupation of the Railway accommodation unauthorisedly beyond the permitted period, that in itself would not confer any right in favour of the compassionate appointee in the matter of regularisation of the railway accommodation in his/her name. Further, the Railway Administration should also initiate eviction proceedings soon after the prescribed period of retention of accommodation is over.

4. The learned counsel for the applicant has contended that this circular was considered by the Tribunal while giving the relief in the afore-mentioned case. I hold that this case is clearly distinguishable because ^{of} a new element of sub-letting. The rules for sharing of accommodation allotted to railway employees provide that in case where it is established that an allottee has sub let his quarter without prior permission of the competent authority, he/she renders himself/herself liable to cancellation of the allotment rendering the continued retention unauthorised raising liability to ^{guidelines} penal rent and damage. I. he ~~rules~~ also prescribe in surprise checks/co-operation with the two Unions, i.e. URMU and NRMU. In this case, the counter clearly states that such surprise checks were made twice and the quarter was found sub-let. Eviction proceedings were initiated and the Estate Officer is reported to have given a decision.

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That decision was an enclosure to the impugned letter at Annexure A-1. Though the applicant has not chosen to file this enclosure, he cannot claim that he was not aware of the decision of the Estate Officer. This decision has not ^{been} specifically challenged in this O.A.

5. In the facts and the circumstances of the case, I find no merit in this application and it is hereby dismissed.

6. There will be no order as to costs.

B.N. Dholiyal
(B.N. Dhoundiyal)

November 5, 1993.

Member(A).

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