

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2027/93

New Delhi this the 18th day of February, 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

1. Shri Khushal Chand
S/O Shri Kanaya Lal,
Retired Head Clerk,
Mechanical Branch,
Northern Railway,
Baroda House, New Delhi.
R/O 121/17, Railway Colony,
Delhi Kishanganj, Delhi.
2. Miss. Lata Kumari
D/O Shri Khushal Chand,
Booking Clerk, DRM's Office,
Northern Railway, New Delhi.
R/O 121/17, Railway Colony,
Delhi Kishanganj, Delhi. ... Applicants

By Advocate Shri S. K. Sawhney

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Superintending
Engineer (Estate),
Northern Railway,
DRM's Office, New Delhi. ... Respondents

By Advocate Shri I. C. Sudhir

O R D E R

In this application, Shri Khushal Chand, retired Head Clerk, Mechanical Branch, Northern Railway, New Delhi, has prayed for regularisation of Railway quarter No. 121/17, Delhi Kishanganj in the name of his daughter, Miss. Lata Kumari, Railway Booking Clerk w.e.f. 1.7.1992, and has also prayed for changing of normal rent for the said Railway quarter from

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applicant No.2 from 1.7.1992 to the date of regularisation, along with release of DCRG with interest at market rates thereon and release of post-retirement passes.

2. Applicant No.1 was appointed in the Railways on 15.10.1952 and was allotted Railway Quarter No. 121/17, Delhi Kishanganj during his service. It is not denied that the said accommodation was being shared by his daughter, applicant No.2 herein, on her appointment as Booking Clerk on 11.11.1991, and sharing permission was granted vide letter dated 24.12.1991 (Annexure A-4) whereby applicant No.2 was ordered to be ineligible for house rent allowance w.e.f. 11.11.1991.

3. Applicant No.1 retired from service on 30.6.1992 upon which applicant No.2 applied for regularisation of the said quarter in her name. The request for regularisation was, however, rejected vide impugned order dated 12.8.1993 (Annexure A-1). No reasons were indicated in that letter as to why the request for regularisation was rejected, and it was merely stated that the request was examined by the competent authority and "it is regretted that quarter No. 121/17, DKZ cannot be regularised in her name."

4. Shri Sawhney, learned counsel for the applicants has drawn attention to the contents of Railway Board's letter dated 15.1.1990 (Annexure A-5). Paragraph 2 of that letter reads as follows :-

"2. 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

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out of turn basis provided that the said relation was a railway employee eligible 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 next below is to be allotted.

Furthermore, paragraph 3 note (vi) provides that :-

"(vi) The date of regularisation should be from the date of cancellation in case the eligible dependent is already in railway service and is entitled for regularisation and not from the date of issue of the orders, which was the practice being followed till now."

5. It is not denied that the applicant No.2, Miss Lata Kumari, is the daughter of applicant No.1 and is eligible for Railway accommodation, and has been sharing accommodation with applicant No.1 since 11.11.1991, that is, more than six months before the date of retirement of applicant No.1 and has also not claimed any house rent allowance during that period. No reasons have been given in the counter affidavit filed by the respondents as to why applicant No.2 is not entitled to the regularisation of the said quarter in her name, and Shri I. C. Sudhir, learned counsel for the respondents, was also unable to state why the request for regularisation was refused. Under the circumstances, this application is entitled to succeed, and is disposed of with the following directions :-

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- (i) In the event that the applicant No.2 is eligible for regularisation of quarter No. 121/ 17 , Delhi Kishanganj on the basis of the pay that she draws, the said quarter should be regularised in her name w.e.f. 1.3.1993, and licence fee at normal rates should be charged for the said Railway quarter from applicant No.2 for the period from 1.3.1993 to the date of regularisation.
- (ii) In case applicant No.2 is not eligible for quarter No.121/17, Delhi Kishanganj type of residence, a residence of the entitled type or type next below should be allotted to her on the next-available-vacancy basis. In that event, licence fee for quarter No.121/17, Delhi Kishanganj should be charged at normal rates from 1.3.1993 till the date of allotment of the new quarter, subject to the applicants vacating quarter No.121/17, Delhi Kishanganj immediately upon allotment of the new quarter.
- (iii) Necessary orders regarding regularisation or fresh allotment, as the case may be, should be issued forthwith and in any case not later than two months from the date of receipt of a copy of this judgment.
- (iv) Simultaneously with the issue of orders regarding regularisation/allotment of the quarter in the name of applicant No.2, the DCRG due to applicant No.1 should be released.

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The prayer for interest on DCRG withheld is rejected, as it is not on account of any administrative lapse on the part of the respondents.

(v) Post-retirement passes should be released to applicant No.1 prospectively at the time the orders regarding regularisation/allotment of the quarter are issued.

(vi) There shall be no orders as to costs.

/as/

S. R. Adige
(S. R. Adige)
Member (A)