

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 940 OF 1996

Allahabad, this the 16th day of July, 1999.

CORAM : Hon'ble Mr.S.Dayal, Member (A)

Vipin Kumar Srivastava,  
S/o. late Sri Ramashray Prasad,  
R/o. Quarter No.415-A,  
Medical Colony, N.E.Railway,  
Gorakhpur.

.....Applicant

By Shri Bashisth Tiwari, Advocate

Versus

1. Medical Director, N.E.Railway,  
Gorakhpur.
2. Divisional Railway Manager (Mechanical)  
N.E.Railway, Ashok Marg,  
Lucknow.
3. Union of India through General Manager,  
N.E.Railway, Gorakhpur.

.....Respondents

By Shri Amit Sthalekar, Advocate

ORDER

(By Hon'ble Mr.S.Dayal, Member (A) )

This application has been filed seeking regularisation of quarter No.415-A, Medical Colony, N.E.Railway, Gorakhpur in favour of the applicant and setting aside of order dated 23-2-1996 passed by Medical Director, N.E.Rly, Gorakhpur informing the applicant that quarter could not be allotted to him because it was against the rules.

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2. The claim of the applicant is that his mother was working as Mid-wife in L.N.M.Railway Hospital, N.E. Railway, Gorakhpur and the applicant who was working as Khalasi under Coaching Depot Officer was sharing the accommodation with her since November, 1993. His mother retired on superannuation on 30-6-94, and he sought regularisation of accommodation to him on the ground that his application made in the month of Nov '93 for sharing the accommodation with his mother was allowed and rent of quarter was recovered from him and House Rent Allowance stopped. He has produced a copy of permission given by Divisional Railway Manager (P), Lucknow permitting the applicant to share accommodation with his mother w.e.f. November, 1993. This letter granting permission is from 18-8-94. The Coaching Depot Officer also informed the Medical Director, L.N.M.Railway Hospital that the quarter may be handed over to the applicant and would be replaced by another quarter when it becomes available in future.

3. The arguments of Shri Bashisth Tiwari for the applicant and Shri Amit Sthalekar for the respondents have been heard.

4. The respondents have resisted the claim of the applicant on the ground that there was no clear order of sharing accommodation before six months of the retirement of the applicant's mother. The order of sharing of accommodation was issued three months after the retirement of the applicant's mother. Therefore, it was not established that the applicant was staying with his mother for six months prior to her retirement in the same quarter. Respondents have also mentioned that the quarter cannot be allotted to the applicant because it belongs to medical department, and has to be allotted to a staff of emergency duty.



5. From the averments made by the respondents it is clear that Rs.150/- per month was deducted from the emoluments of the applicant for the period from Nov '93 to Aug '94 as a House Rent. The payment of House Rent Allowance had also been stopped. The only ground on which the respondents seek to deny the claim of the applicant is that quarter belongs to Medical Department while the applicant was working under D.R.M., N.E.Rly, Lucknow. The claim of the applicant, however, that he could have made an application for sharing accommodation to his superiors and that it was upto his superiors to take necessary action and grant him permission is valid. The <sup>issue of</sup> inter-departmental <sup>delegation of power</sup> ~~discretions~~ cannot be allowed to defeat the claim of the applicant. However, taking into account the fact that the quarter in which applicant's mother was staying belongs to the staff of Medical Department who would be required in emergency, it is felt proper to direct the respondents to allot a quarter of the entitlement of the applicant <sup>as</sup> on 30-6-94 on out of turn basis as and when such quarter falls vacant in future, till then the applicant may be allowed to continue to stay in the present quarter on payment of normal rent.

6. There shall be no order as to costs.

  
MEMBER (A)

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