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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No. 1323 of 1986 (T)

Vijay Kumar and Another Plaintiff

Versus

Union of India Defendant

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon.Ajay Johri, A.M.)

31/

Suit No. 1390 of 1983 Vijay Kumar and Madan Mohan Prasad Versus Union of India has been received on transfer from the Court of Munsif Gorakhpur under Section 29 of the ~~Central~~³¹ Administrative Tribunals Act 13 of 1985. The plaintiffs' case is that they are both residing in Railway Quarter No. 149/C-II in the Railway Colony at Gorakhpur. This quarter was initially allotted to plaintiff No.2 Madan Mohan Prasad. The plaintiff No.1 Vijay Kumar's father Shri Rajendra Prasad who was also an employee of the North Eastern Railway was actually residing with plaintiff No.2. On his death in a train accident plaintiff No.1 who was his son was employed in the Workshop on compassionate ground and continued to live with Madan Mohan Prasad plaintiff No.2. The plaintiffs No.1 and 2 had applied on 20.10.1981 for allotment of this quarter to plaintiff No.1 on the retirement of plaintiff No.2 but the quarter was allotted to one Shanker Bhagwan also working in the Gorakhpur Workshop. The plaintiffs' case is that Railway Administration has allotted quarters to employees whose parents died during the course of employment and on this basis since plaintiff No.1 was also employed on compassionate

grounds on the death of his father he should be allotted the same quarter. The plaintiffs have prayed for a relief that ^{3f} ~~it may be declared that~~ ^{3f} the order of allotment made by the Additional Chief Mechanical Engineer, Gorakhpur in favour of Shanker Bhagwan may be declared illegal and contrary to rules and that the defendant may be restrained from forcibly getting the quarter vacated from plaintiff No.1 and the quarter may be deemed to have been allotted in favour of plaintiff No.1.

2. The case of the defendant is that plaintiff No.2 Madan Mohan Prasad was never authorised to share the accommodation in question with the father of plaintiff No.1 who was staying with him and it was only when an application dated 22.10.1981 was received by them that the defendant came to know about the alleged sharing of accommodation unauthorisedly by another incumbent. The plaintiff No.2 has since retired on 31.7.82 and after that he had to vacate that accommodation and the accommodation has been correctly allotted to Shanker Bhagwan. According to the defendant the plaintiff No.1 is not entitled at all for allotment of accommodation on compassionate ground.

3. We have heard the learned counsel for both the parties. Our attention has been drawn to the North Eastern Railway HQrs. letter of 8.3.1972 on the subject of allotment of railway quarter. This letter is based on Railway Board's letter of 25.6.1976^{3f} which has laid down that when a railway servant who has been allotted railway accommodation retires from service or dies in service his/her son, daughter, wife, husband or father may be allotted

accommodation on out of turn basis provided the said relation is eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway servant for atleast six months before the date of retirement or death and the same residence may be regularised if he is eligible for a residence of that type or a higher type. In other cases the said dependent will be allotted residence of his/her entitled type or a type next below.

4. From the application made by Madan Mohan Prasad on 22.10.1981 it is clear that plaintiff No.1 Vijay Kumar is the son of his nephew Rajendra Prasad who was staying with him in the same house without any permission. In this letter of 22.10.1981 he had requested that since he was himself on the verge of retirement sharing of ^{3/}accommodation ~~allotment~~ may be approved in the name of plaintiff No.1 Vijay Kumar.

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5. The important aspect that comes to light on a perusal of the letter written by plaintiff No.2 is that ^{2/}plaintiff No.1 is neither his son nor his direct grand son. Plaintiff No.1's father was staying with him unauthorisedly and had not sought permission for sharing accommodation. In any case sharing of accommodation does not entitle the person, who is not the allottee of the quarter, ^{3/}but to ~~demand~~ the allotment on the vacation of the quarter by the allottee. Thus even if the plaintiff No.1's father Rajendra Prasad would have been alive he would not have been eligible for the allotment of the quarter unless his turn fell for allotment of a quarter or he belonged

to an essential category which could be covered by some priority for allotment. Shri Rajendra Prasad died in a train accident and the plaintiff No.1 who was his son, and naturally ^{31/}staying with him, got a compassionate appointment on account of Rajendra Prasad's death. The Railway Board's letter which has been cited by the plaintiff ^{31/} ~~is~~ ^{claiming that it} entitled ^{31/} him to the allotment of the quarter does not apply to him. His father was not in turn for a house. No documents have been produced before us to show that if he had not died, on the retirement of Madan Mohan Prasad, he would have been automatically allotted the quarter. He was ^{31/} ~~even~~ not sharing the accommodation with Madan Mohan Prasad. Therefore he had no claim for the quarter.

6. According to para 1714 of the Indian Railway Establishment Manual where a quarter has been allotted to a railway servant he is not supposed to transfer or sub let any portion without first obtaining permission to do so. This condition is not ^{satisfied} ~~specified~~ in this case.

^{31/} Even if this was satisfied, the plaintiff No.1's father was not entitled to any allotment as he was not in turn. ^{31/}

7. The plaintiffs have taken shelter of some other allotments that had been made by the Administration in favour of sons of railway employees who were occupying quarters, On the plea that plaintiff No.1's case is similar and because he has been appointed on compassionate grounds his case should also be viewed in the same lines. As already mentioned above, the father of the plaintiff No.1 was never sharing accommodation. He was also not due for allotment of a quarter in his own turn and therefore on

the vacation of the quarter by plaintiff No.2, on his retirement, the allotment made by the defendant to Shanker Bhagwan cannot be challenged.

34/ 8. In the result the petition ~~must fail.~~ The ~~2~~ ² ~~ns~~ ³ 1390 of 1983) suit is dismissed. Parties will bear their own costs.

[Signature]
V.C.

[Signature]
A.M.

Dated the 11/12 Dec., 1986.

RKM