

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /76 of 1992
T.A. No.

DATE OF DECISION 7-3-1994

Labhshanker Bhayabhai Teraiya Petitioner
and Rasiklal Labhshanker Teraiya

Mr.R.J.Oza Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr.R.M.Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V.Radhakrishnan

: Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

1. Labhshanker Bhayabhai Teraiya
2. Rasiklal Labhshanker Teraiya, Both
residing at Railway Quarter,
No.23/M 'A' Type,
Dhola Junction

applicant

Advocate

Mr.R.J.Oza

versus

1. Union of India,
(Notice to be served
through: The General Manager,
Western Railway, Churchgate,
Bombay.)
2. The Divisional Railway Manager,
Western Railway,
Bhavnagar Division,
Bhavnagar.

respondents

Advocate

Mr.R.M.Vin

ORAL JUDGMENT

O.A.76 of 1992

Date: 7-3-1994

Per Hon'ble Shri V.Radhakrishnan

Member (A)

Heard Mr.R.J.Oza, learned advocate
for the applicant and Mr.R.M.Vin, learned advocate for
the respondents.

2.

The applicants are Mr.Labhshanker

Bhayabhai Teraiya and his son Rasiklal Labhskanker Teraiya. Applicant No.1. was working as Peon Under ADMO Dhola Junction, Bhavnagar, Western Railway and was occupying a railway quarter. He retired from service on 31-1-1990. According to him, his son has been staying with him. His son, who is also a Railway employee i.e. Khalasi Cleaner under respondent No.2. had been staying with him and his name is registered with the respondents from 14.9.1989. Both the employees have made an application to DRM(E) Bhavnagar vide their application dated 13.12.1989 to consider the question of allotment of the quarter occupied by the applicant No.1. to petitioner No.2. It would appear that the earlier application of applicant No.2. was rejected by the respondents on the grounds that the sharing of the quarter by him with the petitioner No.1. was less than six months as on date of retirement of petitioner No.1. i.e. on 31.1.1990. It appears that no reply was given to those application dated 13.12.89 made by the applicants. The respondents have filed the reply and argued that the date of retirement of the applicant No.1 being 31.1.1990 and taking into account the registration of the applicant No.2. as 14.9.1989, the required condition has not been satisfied in order to allot the quarter to applicant No.2 inasmuch as he had not completed six months sharing of the accommodation with applicant No.1. However, they have admitted that permission to retain accommodation by applicant No.1 has been given by the

Railway Administration upto 31-5-1990.

3. The rules portion in this regards as follows :-


" 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 railway accommodation on out of turn basis provided that the said relation is a railway servant eligible for railway accommodation and has been sharing accommodation with the retiring or deceases railway servant for at least six months before the date of retirement or death."

4. Mr.Oza, on behalf of the applicant admitted that as on date of retirement i.e. 31.1.1990 applicant No.2. had not completed six months of sharing accommodation to petitioner No.1. However, taking into account the extended time for which permission had been granted by Railways on 16.5.1990, Annexure A-3, the total period of sharing accommodation by applicant No.2 with applicant No.1. exceeds 6 months. Accordingly, he argued that the applicant's application deserves consideration as he fulfills the required condition.

5. The contention of the respondents is

that as the application of applicant No.2. was registered only on 14.9.1989 and the applicant No.1. had retired on 31.1.1990, the condition regarding sharing the accommodation by applicant No.2. and the applicant No.1. is less than 6 months and hence, the condition is not fulfilled for allotment of the accommodation to applicant No.2.

6. There is substance in the contention taken by Shri Oza, learned advocate for the applicants. In the present case the applicant No.1. has been allowed retention of railways accommodation till 31.5.1990 and he was in legal possession of the same as decided by Punjab and Hariyana High Court in Sukhdev Singh's case, 1983 1 SLR 1977. The period between 31.1.1990 and 31-5-1990 will also be counted and since the applicant No.2. had registered on 14-9-1989, the period of 6 months will be covered. In view of the above, the applicant No.2. is entitled for allotment of the accommodation consequent to the retirement of applicant No.1. The respondents^{are}/hereby directed to reconsider the matter and issue orders allotting quarter No.M/22, Type-I at DLJ, in favour of Shri Rasiklal L.Teraiy applicant No.2. within a period of 3 months from the date of receipt of this order. The retention of the Quarter of the applicant No.1. beyond 26-5-1990 till it is allotted to applicant No.2. shall also be regularised accordingly by levy of normal rent. With the above directions, application is allowed. No order as to costs.


(V.RADHAKRISHNAN)
Member (A)