

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH CALCUTTA**

ORIGINAL APPLICATION NO. 581 OF 1997

**HON'BLE MR. M.K. MISHRA, MEMBER- A.
HON'BLE MR. K.B.S. RAJAN, MEMBER- J.**

1. M. Chinna Rao, S/o Late M. Appanna,
Ex Mechanic H.S. Gr. I, Ticket No. 21107,
Under Dy CME (D/W) in shop No. 21,
S.E. Rly. Workshop, Residing at Railway Q.
No. L/2, A-1, Unit- 23, New Settlement,
P.O. Kharagpur, P.S. Kharagpur (Town),
Distt. Midnapore.

2. M. Chandra Shaker, S/o Sri M. Chinna Rao,
Diesal Khalasi , Ticket No. 21784, in shop No. 21,
Under Dy. CME (D/W), S.E. Rly workshop ,
Kharagpur, residing with father in S.E. Rly Qtr.
No. L/2 A-1 Unit No. 23, New Settlement,
P.O. Kharagpur, P.S. Kharagpur (Town),
Distt. Midnapore.

..... Applicants

V E R S U S

1. Union of India service through the
General Manager, South Eastern Railway.
Garden Reach, Calcutta- 700043.

2. Chief Personnel Officer, S. E Railway,
Garden Reach, Calcutta- 43

3. Dy. Chief Mechanical Engineer (D/W),
SE Rly., Workshop, Kharagpur- 721 301.

4. Workshop Personnel Officer, SE Rly., Workshop,
Kharagpur- 721 301.

5. Chief Project Manager, SE Rly., Workshop,
Kharagpur- 721 301.

6. Dy. F.A & C.O, SE Rly., Kharagpur- 721 301
Distt. Midnapore.

..... Respondents

For the applicant : Sri P.C. Maity
Sri T.K. Biswas

For the respondents : Sri L.K. Chaterjee
Sri K.C. Saha

Heard of 29.06.05

order pronounced on 01/7/05

ORDER

By Hon'ble Mr. K.B.S. Rajan, JM.

Out of turn Allotment of accommodation to the son, i.e. Applicant No. 2 (who had been given compassionate appointment) of the railway servant (Applicant No. 1) who sought voluntary retirement on medical grounds and regularization of the period of "unauthorised occupation" by the father of the applicant is the main issue in this O.A.

2. The following are the minimal dates of events to appreciate the case:-

Date	Event
05-04-1995	Applicant No. 1 permitted to retire from Railway Services on medical grounds.
15-09-1995	Applicant No. 2 makes application for compassionate appointment in the wake of his father's voluntary retirement on medical grounds.
04-12-1995	Upto this date, he had been formally permitted to retain the accommodation allotted to him
23-11-1996	Applicant No. 2 given compassionate appointment.

CM

07-12-1996	Applicant No. 2 writes to the department not to pay him any house rent allowance as he has been in occupation, along with his father, of the accommodation allotted to the father. Also applies for out of turn allotment of accommodation.
23-12-1996	Applicant No. 1 also prefers an application for allotment of accommodation on the basis of "Father and son" Rule.

3. The respondents have not only not considered the case of the applicant for allotment of accommodation but have withheld the gratuity and other terminal benefit of applicant No. 1. Hence the prayer of the applicants for allotment of accommodation in favour of applicant No. 2 on out of turn basis under the 'father and son' rules and regularization of the same retrospectively from the date of appointment and also for releasing the withheld terminal benefits due to applicant No. 1.

4. In their counter the respondents have stated that the applicant No. 2 is not entitled to the allotment of accommodation as his father (applicant No. 1) was not medically invalidated but had voluntarily retired though on medical grounds after his de-categorization. The respondents also contended that even it be assumed that the case of applicant no. 1 falls under the category making him eligible to the benefits of 'father and son' rule, then also as the compassionate appointment was made available to the ward beyond one year of his retirement, the benefit of the rule cannot be available in this case. It was also contended that for the allotment of accommodation under this rule the son should have been in employment and should have remained with the parents for a minimum of six months prior to the date of retirement.



5. The applicants have filed their rejoinder.

6. Arguments were advanced and the counsel for the applicants focused his attention to annexure A- 7 of the paper book which contains a list of cases where Railway quarters in favour of wards appointed beyond one year's time limit on compassionate grounds were regularized. Regularization of quarters had been made in the said list in respect of cases where the time distance between the death/medical retirement of the railway employee and compassionate appointment of the ward is extending even for two years plus, while in the instant case it is just one year and seven months. Again, what is to be seen is whether there was any delay in the case of the ward in applying for the appointment. No such delay has taken place in this case. As regards the contention of the respondent that the ward should be with the father for a minimum of six months and in the employment as such during this period as well, the counsel for the applicant had rightly submitted that the said requirement is applicable only in respect of normal retirement and where compassionate appointment is involved, this requirement cannot be fulfilled and the requirement is not applicable. The counsel for the applicants submitted that when compassionate appointment had been given to the applicant No. 2, the same would mean that there is no difference between invalidation on medical grounds and voluntary retirement on medical grounds.

7. We have perused the documents and are satisfied that in a number of cases, regularization has taken place and the applicants' case has been singled out for no valid reason. Hence we have no



hesitation to hold that the applicants are entitled to the relief claimed. In the result the OA is allowed. The respondents are directed to pass suitable orders regularizing the allotment of accommodation in the name of the applicant No. 2 from the date of his initial appointment and realize from him house rent, if any, due. The respondents are also directed to release the withheld terminal benefits of applicant No. 1 and in so doing, any rent/penal rent or balance thereof for the period from 05.12.1995 to 22.11.1996 be adjusted from the terminal benefits. This order shall be complied with, within a period of six months from the date of communication of this order.

8. There will be no order as to costs.



MEMBER- J.



MEMBER- A.

/ANANAD/