

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. O.A. 95 of 1997.

Present : Hon 'ble Dr. B.C.Sarma, Member (A)

Hon 'ble Mr. D. Purkayastha, Member (J)

1. JANAKI KANTA MISHRA,

2. G. C. MISHRA,

... Applicants.

1. Union of India, through the
General Manager, S.E.Railway, Garden
Reach, Calcutta - 43.

2. The Chairman, Quarter Committee,
S.E.Railway, Garden REach, Calcutta.

3. The Medical Director, S.E.Railway
Garden Reach, Calcutta-43.

4. Shri Dipankar Bhunia, Substitute
Hospital Attendance, Central Hospital
S.E.Railway, Garden Reach, Calcutta.

5. Sri Pravat Besai, Hospital Atten-
dant, S.E.Railway, Garden REach,
Calcutta-43.

... Respondents.

For applicants : Mr. A.K.Majumdar, Counsel.

For respondents: Ms. B.Ray, Counsel.

Heard on: 13.2.97 :: Ordered on : 13.2.97.

O R D E R

B.C.Sarma, AM

The dispute raised in this application is about the allotment of railway quarters under the father and son rule.

2. In brief, the facts of the application are as follows: The applicant was originally engaged as a casual labour by the respondents in 1992 and he obtained temporary status on 18.10.95. His father was a Hospital Attendant under the same railway and he retired on attaining the age of superannuation with effect from 31.5.96. The applicant



contends that he has been living with his father for the last six months prior to the date of retirement of his father. He also did not draw any house rent allowance during that period. The applicant had applied to the authorities concerned for allotment of the quarters to him after his father had retired, but his prayer was turned down by the Quarter Committee. Against the order of the quarter committee, the applicant has filed an appeal to the General Manager. The General Manager has duly considered the matter and his prayer was turned down by an order dated 3.1.97. Being aggrieved thereby, the instant application has been filed with the prayer that a direction be issued on the respondents to allow him to continue in the quarters, which was allotted to his father and also to allot the same quarters to him and also to quash the impugned order dated 28.11.96 passed by the quarters committee and the order dated 3.1.97 passed by the General manager.

3. No reply has been filed in this case and the matter was heard without any reply since the applicant had obtained an interim order of injunction against the respondents not to realise any penal or damage rent for occupying the said railway quarters. The matter was part-heard earlier and today it was taken up for admission hearing since the respondents were directed to produce necessary particulars regarding the allotment of quarters in respect of private respondents No.4 and 5. It may be mentioned that the applicant contended that while the benefit of allotment of quarters has been denied to him by the respondents, same benefit has been given to private respondents No.4 and 5 and, hence, there has been ~~discrimination~~ in the matter.

4. The matter has been examined by us after hearing the learned counsel for both the parties, perusing records and considering the facts and circumstances of the case. First of all, we would like to deal with the contention of the applicant as regards alleged discrimination committed by

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the railway respondents in the matter of allotment of quarters under father and son rule. But before that, we would like to comment that right of a government or railway employee arises out of statutory provision or rules and not out of any comparison. Even if some one was wrongfully given a benefit, that itself cannot be a right to be enforced through the legal process. We are, therefore, ^{are examining if any} ~~of the view that there~~ ^{in its case} is no discrimination involved therein. We find that on the date of hearing of the application, the applicant has obtained temporary status as per the document produced by Ms.Ray. We find that private respondent No.4 was regularized in service on 29.7.94 and the allotment of the quarters was made to him by an order dated 4.11.91. Private respondent No.5 was regularized on 21.3.96. We are, therefore, of the view that the status of the private respondent No.4 and 5 is distinct from that of the instant applicant and, therefore, the question of discrimination does not arise at all.

5. We would now come to the provision to which a casual labour or substitutes with temporary status may or may not be entitled to get the benefit under the father and son rule. In this respect, Ms.Ray produced before us a copy of the Estt. Serial No 53/91, bearing No.P/R/30/35/Out of-turn dated 25.3.91. The point was raised therein at sub-para(v) and the answer given was as follows :

Whether casual labour/substitutes with or without temporary status are still not entitled to such benefits?

: Reply is in affirmative.

It is, therefore, quite clear from the above provision that a casual labour or a substitute with or without temporary status is not entitled to get the benefit of allotment of quarters under father and son rule. This being the \$position, we do not find any merit in the claim of the applicants to get the allotment of quarters out of turn under the father and son rule. Accordingly, the application is liable to be dismissed.

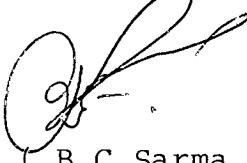
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6. For the reasons given above, we do not find any merit in this application. It is, therefore, dismissed at the stage of admission itself without passing any order as regards costs.

7. Copies of documents produced by Ms.Ray may be kept as a part of the record after they are duly attested by the 1d. counsel.

8. Learned counsel for the applicant submitted that the applicant is going to vacate the railway quarters on 1.3.97. Since there was an interim order passed by this Tribunal, no penal or damage rent may be realised from him. The matter has been considered by us and it is ordered that since there was an interim order issued by this Tribunal, we direct the respondents not to realise any damage or penal rent *but* ~~and~~ realise only normal rent for the period from the date of injunction order till 1.3.97.


(D. Purkayastha)
MEMBER (J)


B.C. Sarma)
MEMBER (A)