

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.567/2005
This the 08th day of December 2006

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Km. Bonhi Shikha Bose, aged about 42 years, R/o Qr. No.II 33-B, Munnar Bagh Colony , Alambagh, Lucknow working as a Sr. Ticket Collector, Charbagh, NR, Lucknow.

...Applicant.

By Advocate: Shri A.P. Singh.

Versus.


1. Union of India through the Ministry of Railways Govt. of India, Rail Bhawan, New Delhi.
2. General Manager Baroda House, New Delhi.
3. Divisional Rail Manager (Engg.), Northern Railway, Hazratganj, Lucknow.
4. Divisional Rail Manager (P) Northern Railway, Hazratganj, Lucknow.
5. Station Manager/Secy. Housing Committee Charbagh, Lucknow.

By Advocate: Shri S.M.S. Saxena.

ORDER


BY M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this OA with a prayer for issuance of direction to the respondents to allot the quarter and also to regularise the same in the name of the applicant, in which she has been residing after the death of her father with the following averments.



2. The father of the applicant Late Robin Bose, while working as I.O.W. at Northern Railway, Lucknow occupied the railway quarter bearing No. II-33-B, Munnaur Bagh, Railway Colony, Alambagh, Lucknow after due allotment. He died on 28.11.1986. The applicant who is the daughter of the deceased railway employee has been residing in the said quarter even after the death of her father. Subsequently, she got an appointment on 08.10.1993 on compassionate ground on the death of her father as per the direction given in T.A.No.954/1987 filed by her father, disputing his date of birth entered in the service book. Thereafter, the applicant has been making representation to the concerned railway authorities for allotment of the said quarter in her favour and for its regularisation. Annexure-2 to 7 are the copies of the said representations. She also got issue a Legal Notice on 09.07.2005 to Respondent No.3 and 4 stating that her representations have not been decided by the authorities for allotment of the quarter in her name and for regularisation and if the authorities failed to pass any order, she intends to approach the Court and accordingly, she filed this O.A. with a prayer to allot the quarter in her favour, which is in the name of her father and for regularisation of the said quarter in her name.

6. The respondents have filed Counter-Affidavit stating that the claim of the applicant was time barred occupation of the applicant in the quarter is unauthorized and without any allotment. When the allottee Robin Bose died on 28.11.1986, the applicant claiming benefit for allotment of the same quarter in her name and also for regularisation of her stay is against the rules. They further stated that the railway quarters are allotted to the railway employee on their turn




and for such allotment has to be considered by the competent authority. The applicant ought to have vacated the quarter after the death of her father on 28.11.1986 but she has retained the same and continuing till date. Though, the applicant made numbers of representations, but none of them have been considered by the authorities and in those circumstances, she ought to have filed the application within time during the year 1986-87 but not at this belated stage.

7. The applicant also filed Rejoinder-Affidavit reiterating her stand taken in the O.A.

8. Heard both sides.

9. The point for consideration is whether the applicant is entitled for the relief as prayed for.


10. The admitted facts of the case are that when the father of the applicant was in service, the respondents authorities allotted the railway quarter bearing Qr. No.II 33-B, Munnar Bagh Colony, Alambagh, Lucknow in his favour and while staying therein he died on 28.11.1986 in service. It is also not in dispute that during his life time he filed a T.A.No.954/1987, disputing his date of birth as entered in his service-book but he died before the disposal of the same and while disposing of the said O.A. the Tribunal gave a direction to the respondent authorities to consider the appointment to one of the family member of the deceased of Late Rabin Bose. Annexure-1 is the copy of order passed in T.A.No.954/1987 dated 31.01.1992. Thereafter, respondents have appointed the applicant on 08.10.1993 on compassionate grounds and since then she has been working as Ticket Collector.



11. It is also not in dispute that even after the death of her father Late Rabin Bose, the applicant has been continuing in the same quarter allotted to her father and not vacated. It is also not in dispute that the applicant also made representations for regularisation/allotment of the said quarter in her name but the respondent department did not consider her such request and not passed any orders. During that period, the applicant was not at all a railway employee and as such, considering her request for allotment of the said quarter does not arise. After her appointment, she also made such request to the respondent authorities but they have not considered the same and also not passed any orders. Lastly, she filed an O.A. in the year 2005, claiming for allotment of the same quarter in her name and also for regularisation. During the course of arguments, it has also brought to the notice of the tribunal that after the death of the father of the applicant the rent of the quarter was collected from his son, who is not a party in this matter.

12. The short point involved in this case is whether the claim of the applicant for regularisation of the quarter in her favour, allotted to her father and also for allotment of the same in her favour is maintainable or not. The main objection of the respondents is that, it is the duty of the applicant to vacate the quarter immediately after the death of his father and without vacating she has been continuing in the said quarter, which is nothing but an unauthorized occupation of the quarter, for which she has to face the consequences and thus opposed the claim of the applicant.

13. Admittedly, the applicant was not at all an employee after the death of her father further such she was appointed on compassionate



ground after more than 7 years after the death of her father. Before entering into the service, the respondents allotting the quarter in the name of the applicant who was not in service is not at all maintainable and similarly, the question of regularisation of the same also does not arise as there was no continuance of the service of the applicant immediately after the death of her father.

14. Coming to the request of the applicant for allotment of the said quarter in her name, it is the case of the respondents that they have to follow rules and procedure and it will be made as per the turn of the employees. When such rules are in existence, making such request for allotment in her name by the applicant on the ground that she has been in possession and occupation of the quarter after the death of her father is not at all maintainable.

15. The respondents have also taken a plea that the claim of the applicant for allotment/regularisation of the quarter is barred by limitation as she filed this application in the year 2005, whereas she joined in the service on 08.10.1993 and her father died on 28.11.1986.

13. Mere making representations is not at all a sufficient ground for explaining delay in filing the O.A. when the right has been accrued to the applicant, she ought to have filed immediately after expiry of time limit on presenting of her representation Under Section-20 of Administrative Tribunal Act 1985 and mere issuing reminders does not save limitation. As such the arguments of the learned counsel for the respondents, that the claim of the applicant is barred by limitation is valid and justified.



14. In view of the above discussion the applicant failed to prove her right for allotment of the quarter in her name and also for regularisation of the same in her name, after the death of her father and thus the petition deserves for dismissal.

In the result the O.A. is dismissed. No order as to costs.


(M. KANTHAIAH)
MEMBER (J)

8.12.01

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