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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH? NEW BOMBAY.

Original Application No. 429 of 1986.

Ramswarup Ram Narayan Tiwari,
17 - Mahendra Smriti,
Geraswadi, Malad,
Bombay - 400 064.

... Applicant.

V/s.

1. Union of India, through
The General Manager,
Central Railway,
Bombay V.T.,
Bombay - 400 001.

2. Divisional Railway Manager(P),
Bombay Division,
Bombay V.T.,
Bombay - 400 001.

... Respondents.

Coram: Hon'ble Member(A) J.G.Rajadhyaksha

Hon'ble Member(J) M.B.Mujumdar

Appearance:

1. Miss.Neeta R. Tiwari,
for the applicant
2. Mr.S.R.Atre for the
Respondents.

ORAL JUDGMENT

Date: 12-1-1987

(Per M.B.Mujumdar, Member(J)

This application is filed under Section 19 of the Administrative Tribunals Act. We have heard the applicant's advocate Miss.Neeta R.Tiwari and respondent's advocate Mr.S.R.Atre. In fact today we were to dispose of the applicant's request for Interim Relief but by consent of the advocates for both the sides, we are disposing of the application finally as the Respondent's advocate has nothing more to say.

2. The applicant Ram Narayan Tiwari is working as Chief Ticket Inspector, in the Bombay Division of the Respondents. He is having two daughters; Neeta aged 28 years and Gita aged 25 years. Both are unmarried. Neeta is B.Sc., LLM, and Gita is B.Sc. Both are now studying for the Russian language Certificate course of the Bombay University. The

applicant had applied for issue of School Card Passes in respect of both of them. It appears that initially the Respondents had agreed and probably prepared the passes also. But subsequently by an order dtd. 2-9-1986 (Which is annexed as Ex. 'C' to the application) they decided to cancel the passes. As this application is in respect of that order it will be better if we quote the order itself:-

"Shri R.S.Tiwari has applied school card pass for his daughters aged 23,25 yrs. for Languages Courses.

In this connection for languages course children over 21 years of age are not eligible for school card pass.

1st School card pass No.052196 dt. 04.09.85 deposited in this office and cancelled."

3. The applicant has filed this application for declaring that the above order is bad in law and hence it should be quashed. The applicant has prayed for directing the Respondents to issue School Card Passes for his two daughters as both of them are studying for the Russian Certificate Course of the Bombay University. He has further prayed for awarding Rs.200 per month from the Respondents towards the loss caused to him due to not issuing Passes to him.

4. The applicant has quoted the relevant rules from the Railway Pass Manual in the application itself, where according to Rule-3 which defines "Family" We are only concerned with clauses (ii) and (iii) of that definition. According to clause (ii) Sons under 21 years of age,

provided they are wholly dependent on the employee are included in the definition of family. According to clause (iii) which is material for our purpose "Unmarried Daughters" of any age, whether earning or not, are also included in the definition of Family. It is on the basis of this definition that the applicant has filed this application.

5. Thus according to the applicant as both his daughters Neeta and Gita are unmarried he is entitled to School Card Passes in respect of both of them. It is true that one of the daughters Neeta is B.Sc., LLM and she has enrolled herself as Advocate of the Bombay High Court. But so far as unmarried daughters are concerned it is irrelevant whether they are dependent on their father or not. Admittedly, Geeta is neither employed nor earning anything.

6. The impugned order shows that the passes are cancelled because the applicant's two daughters are above 21 years. Again in respect of unmarried daughters, age is also not a relevant consideration. It is relevant in respect of sons only. We, therefore, feel that the applicant will be entitled to School Card Passes for both his daughters Neeta and Gita. The impugned order dt. 2-9-86 in our opinion is not consistent with the rules framed by the respondents in respect of passes. We, therefore, hold that the applicant will be entitled to the passes claimed by him.

7. The applicant has requested in his application that he should be given Rs.200/- i.e. Rs.100/- per daughter per month because the passes were wrongly withheld or cancelled and he had to incur this expenditure.

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We find no reason why the applicant should not be given this relief also. We, therefore, pass the following order:-

- (i) The impugned order dt. 2.9.86 (which is annexed as Ex. 'C' to the application) is hereby cancelled as it is contrary to the Rules;
- (ii) The respondents are hereby directed immediately to issue School Card Passes for the applicant's two daughters viz. Nita and Gita with immediate effect valid till the end of April, 1987. The period may be extended according to the rules until the examination for the Russian language Certificate Course is held by the University of Bombay.
- (iii) The applicant will be entitled to Rs.800/- (Rupees Eight hundred) from the respondents for withholding or cancelling the passes for his two daughters for the period September, 1986 to December, 1986.

No orders as to costs.

(J.G. RAJADHYAKSHA)
Member (A)

(M.B. MUJUMDAR)
Member (J)