

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.ApplicationNo.227/86

Shri Sunil Mahadev Ramade,
C/o. Shri K.K.V.Kurup,
Advocate,
32, Apollo Street, Fort,
BOMBAY - 400 023.

... Applicant
(Original Petitioner)

v/s.

1. The Union of India.

2. The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

... Respondents

Coram: Hon'ble Member(A) S.P.Mukerji
Hon'ble Member(J) M.B.Mujumdar

Appearance:

1. Mr.K.K.V.Kurup,
Advocate for the
applicant.
2. Mr.R.C.Master
Advocate for
the Respondents.

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

Date: 19-6-1987

The applicant had filed Writ Petition No.269/85 in the High Court of Judicature at Bombay and it is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

2. The applicant's father, Mahadev Ramade, was retired on 31-10-1984 as Carshed Superintendent after serving with the respondents for more than 39 years. In 1964 he was allotted Railway Quarter No.89/3 at Matunga Road, Bombay. On 23-9-1977 his son, the applicant, was appointed as casual labour on daily wages. By an order

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dtd.19-4-1984 the applicant's father was permitted to share the quarter along with the applicant on certain conditions. On 23-10-1984 the applicant and his father made separate applications to the respondents for allotting the quarter to the applicant. It appears that the request was not granted. By a letter dt. 24-12-1984 the applicant's father was asked to hand over the vacant and peaceful possession of the quarter as he was in unauthorised occupation of the same since the ~~expiry~~^{from} of one month ~~after~~ his retirement.

3. On 22-1-1985 the applicant filed the Writ Petition in the High Court for directing the respondents to allot the quarter to him. He also requested that the respondents should be directed to give him the status of permanent railway servant, with all consequential benefits. By an order dtd. 12-2-1985 the High Court has granted an interim relief to the applicant directing the respondents not dispossess him from the quarters in question.

4. The respondents have filed their written statement on 30-12-1986. They have pointed out that from 23-9-1977 to 30-6-1979 the applicant was working as a skilled casual labour on daily wages. His services were then terminated on account of the completion of work or due to non-availability of Extra Labour Allocation for the work. Thereafter the applicant was engaged in the Electrical department as a daily rated skilled casual labour against some Extra Labour Allocation. As he had completed 120 days on daily wages continuously he was granted temporary status from 12-10-1980. It is pointed out that since then the

applicant was drawing House Rent Allowance by concealing the fact that he was sharing the accommodation with his father in the railway quarter in question. This disentitled him to the railway quarter which was in the possession of his father. It is admitted that in April, 1984 he applied for sharing the quarter with his father but he was not entitled to the quarter as he was not in regular service.

5. We have heard Mr. Kurup the learned Advocate for the applicant and Mr. Master, the learned Advocate for the respondents. We have also carefully considered the documents ^m and records and the legal position.

6. The applicant has relied on a letter dt. 7-6-1984 which is attached at Ex. 'G' to the application. Para 3(iii) of that letter specifically says that the concession of out turn allotment as admissible in terms of Railway Board's letter dt. 19-12-1981 can be extended to son, daughter, wife, husband or father if the same relation is in regular service and had been sharing accommodation for a period of 6 months before the date of retirement or death of a Railway servant. What is regular service is clarified by Railway Board's letter dtd. 29-8-1986, a copy of which is attached by the respondents to their written statement as Ex. III. The clarification says that the orders contained in Board's letter dtd. 19-12-1981 constitute a special dispensation in favour of the eligible wards of retired or deceased employees and their scope is to be confined only to such of the wards as are regular employees. The letter further clarifies that the casual labour and the substitutes with or without temporary status are excluded from their purview.

As already pointed out the applicant is given temporary status as a casual labour by an order dtd. 9-12-1980. He is never regularised in any service. Hence he will not be entitled to the benefits of the orders contained in the Railway Board's letter dtd. 19-12-1981 of which he is relied.

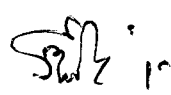
7. Mr. Kurup has relied on Section 2312 of the Indian Railway Establishment Manual. The section is quoted in paragraph 8 of the petition. It says that subject to the availability of accommodation a temporary railway servant is eligible for allotment of the same and to pay rent therefore in the same way as a permanent railway servant would. There can be no dispute about this provision but what the applicant wants is out of turn allotment of quarter which was in the occupation of his father in view of the directions contained in the Railway Board's letter dt. 19-12-1981. As the letter is applicable only to the employees in regular service the applicant will not be entitled to the benefit of the same.


8. There is another reason why the applicant is not entitled to allotment of the quarter on out of turn basis. In para 5 of the petition he has categorically stated that he was residing with his father and other family members since the quarter was allotted to his father. The quarter was allotted to his father in 1964. According to the respondents the applicant was getting HRA till he made application for sharing accommodation with his father i.e. till April, 1984. The Railway Board's letter dtd. 2-3-1971, copy of which is attached as Ex.V to the written statement, emphatically says that no out-of-turn allotment of accommodation should be made to any such persons if they have been drawing house rent allowance suppressing the fact that they were sharing the accommodation allotted to their father/son/husband/wife etc. The applicant has affirmed in his rejoinder that before 23-4-1984 he has

never stayed with his father in the quarter allotted to him till April,1984. But in view of the specific allegations in para 5 of the writ petition the say in the rejoinder appears to be an afterthought. The applicant will not therefore be entitled to allotment of quarter on the additional ground that he was drawing HRA till April,1984 though he was staying in the quarter allotted to his father.

9. The second prayer of the applicant is that he should be given status of a permanent railway servant, cannot be granted by this Tribunal. That is an administrative matter. The respondents shall have to decide this question considering the availability of the post, claims of others and rules.

10. We, therefore, find no merit in the petition and dismiss the same with no orders as to costs.


(S.P. MUKERJI)
Member(A)


(M.B. MUJUMDAR)
Member(J)