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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 314/90 199
T.A. NO: ---

DATE OF DECISION 12-2-1997

Mrs. Prema Paul (2) Mr. K.V. Joseph Petitioners

Mr. G.S. Walia Advocate for the Petitioners

Versus

Union of India and Ors. Respondent

Mr. N.K. Srinivasan Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

mbm*

MD


(M.Y. PRIOLKAR)

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 314/90

1. Mrs. Prema Paul

2. K.V. Joseph

C/o. Shri G.S. Walia,
Advocate High Court,
89/10 Western Railway
Employees' Colony,
Matunga Road,
Bombay - 400 019.

.. Applicants

vs.

1. Union of India

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

3. Divisional Railway
Manager,
Bombay Division,
Western Railway,
Bombay.

.. Respondents

Coram: Hon'ble Shri Justice U.C. Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y. Priolkar, Member(A)

Appearances:

1. Mr. G.S. Walia
Advocate for the
Applicant.

2. Mr. N.K. Srinivasan
Counsel for the
Respondents.

JUDGMENT:
(Per M.Y. Priolkar, Member(A))

Date: 12-2-1992

The applicant No.1 in this application is working as Lady Berth Reservation Clerk at Bombay Central(Western Railway). She was appointed in 1982 as a substitute and has been given temporary status from 1-5-1983. The applicant No.2 is her father who retired on superannuation on 31-3-1989 as Station Superintendent, Dadar, Western Railway. The grievance of the applicants is that the Railway quarter earlier allotted to applicant No.2 is not being allotted after

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his retirement to applicant No.1 on the grounds that she is not a regular employee and that she is married.


2. The respondents have stated that they are merely following the Railway Board's instructions dated 27-12-1982 making the married daughter of a retiring/deceased Railway servant ineligible for out of turn allotment of quarter. But in a judgment dated 13-2-1990 of the New Bombay Bench of this Tribunal in the case of Ms.Ambika R.Nair and another v. Union of India and others(T.A.No.467 of 1986 - not reported), this Railway Board's order dtd. 27-12-1982 has been held to be unconstitutional per se as it suffers from the twin vices of gender discrimination and discrimination among women on account of marriage. We are in respectful agreement with this judgment, which would apply to the facts of this case.


3. The other contention of the respondents that only regular employees are eligible for regularisation of railway quarter is based on Railway Board's circular dated 29-8-1986 in which it has been clarified that orders contained in the Board's letter dated 19-12-1981 are a special dispensation in favour of the eligible wards of retired employees and their scope is to be confined only to such of the ~~wards~~ wards as are regular employees. The circular clarifies that the casual labour and the substitutes with or without temporary status are ~~xx~~ excluded from the advantage of the circular of 19-12-1981. In an identical case of Shri V.A.Kale v. Union of India decided by the New Bombay Bench of this Tribunal

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on 26-11-1987(O.A.271 of 1986 - not reported)
it has however been observed that since the
applicant in that case had retired from railway
service on 31-5-1982, the clarification issued
in 1986 may not be applicable to him, and further
that "in any case, when the Railway Establishment
Manual lays down that employees like the applicant
will be eligible to all facilities available to
railway servants, it is difficult to exclude the
applicant from the benefits available to railway
servants". We are in agreement with this judgment
also, and hold that since the applicant in the
present case before us had also retired before
the clarificatory order of 1986, that judgment
will be applicable to this case.

4. We accordingly direct that the
quarter in question maybe regularised in the
name of the applicant No.1 from 1-4-1989. DCRG
of applicant No.2 may be released and the facility
of post-retirement passes also restored to him.
There will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD