

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH.

Original Application No. 408/91

Transfer Application No.

Date of decision 30.6.1993

Shri Rajendra Anand & Anr. Petitioner

Shri L.M.Nerlekar. Advocate for the Petitioner

Versus

Union of India & Anr. Respondent

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

Coram :

The Hon'ble Shri M.S.Deshpande, Vice-Chairman.

The Hon'ble Shri

1. Whether the Reporters of local papers may be allowed to see the Judgement ? yes
2. To be referred to the Reporter or not ?
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 ?

  
(M.S.DESHPANDE)  
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

Original Application No.408/91.

Shri Rajendra Anand, and Anr. .... Applicants.

V/s.

Union of India & Anr. .... Respondents.

Coram; Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

Appearances:-

Applicants by Shri L.M.Nerlekar.

Respondents by Shri N.K.Srinivasan.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 28.6.1993.

By this application the applicant seeks a direction to the Respondents to transfer the Railway Quarter No.L.21/15, Lower Parel in the name of applicant No.1 from father to son basis in terms of the Railway Board's letter. It is not disputed that one Shri Surendranath Anand<sup>who</sup> was allotted Railway Quarters was occupying it until he was transferred from Bombay to Kota on 10.3.1986 and retired on 31st May, 1986 while he was still in occupation of the Railway Quarter. The applicant No.2 who is<sup>his</sup> son was employed as a Booking Clerk on 25.2.1981 and was absorbed as Assistant Coaching Clerk on 23.11.1983. The applicant No.2 stayed in the quarters with the father on sharing basis from 1.1.1985 and did not receive any H.R.A. from 1.1.1985. The applicant sent communications to the Respondents seeking allotment of the Quarter to the applicant No.2 but by the reply dt. 13.7.1987 and ~~24x7x~~ 24.7.1987 that permission was refused on the ground that the applicant No.2 could not claim retention of the quarter in terms of the instructions issued, because his father had been transferred and had not retired.

2. From the admitted position it is clear that the applicant No.2 was staying with his father from

.....2.

1.1.1985 on sharing basis and hasnot been paid any H.R.A. The applicant relied on the decision of the Principal Bench of this Tribunal rendered in Harinder Singh V/s. UOI & Ors. [I(1990) ATLT(CAT) 141]. The instructions issued by the Railway authorities on 25.6.1966 came to be considered in that case and it was held that if the applicant has not been paid any HRA then the permission to share the quarter had to<sup>be</sup> inferred. The Railway instructions dt. 25.6.1966 are as follows:

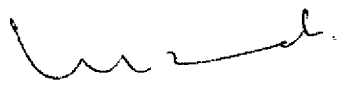
"When a Railway servant who has been allotted Railway accommodation retired from service or dies in service, his/her son, daughter, wife, husband or father, may be allotted railway accommodation on out of turn basis provided that the said relation is a railway servant eligible for Railway accommodation and has been sharing accommodation with the retiring or deceased railway servant for at least six months before the date of retirement or death."

There is no dispute in this case that both the applicants were entitled to be allotted Railway accommodation. According to Shri Srinivasan, the learned Counsel for the Respondents, the benefit of the instructions would be available only when the Railway servant retires from service or dies in service and not to a case such as the present where prior to hisretirement ~~if~~ the Railway servant have been transferred to another place. The submission was that to such a case para 1732 of the Indian Railway Establishment Manual will apply and even in such a case the General Manager by his personal orders may permit railway servants who are transferred to another railway or office in the interest of administration, to retain their quarters on the parent railway for a period not exceeding two months. Since the applicant No.1 had been transferred to Kota and was there for more than 2 months prior to his retirement he could not have obtained the benefit of para 1732 (ibid). Obviously, para 1732 should not control the operation of the instructions dt. 25.6.1966. The requirementof the

(12)

<sup>rule</sup>  
~~matter~~ is that the railway servant should have retired from service or died in service and the relation who was entitled to share the accommodation should have been sharing the accommodation for at least six months before the date of retirement or death. In the present case the second applicant had been residing with the first applicant in excess of the qualified period of six months. The opening words of the instructions do not limit the operation of the instructions only to a railway servant who <sup>has</sup> ~~is~~ retired from service from the same place and since the instructions have been issued for the benefit of the railway employees to fall into the category mentioned in the instructions, it would be <sup>im</sup> ~~be~~ permissible to place a limitation on the words used and reduce the scope of the operation of the beneficent instructions. I am satisfied that in the present case the applicant would be governed by the instructions dt. 25.6.1966 and would be entitled to retain quarters.

3. In the result, the application is allowed. The Respondent is directed to transfer the Railway Quarter No.L.21/15, Lower Parel in the name of the applicant No.1 on father to son basis. There will be no order as to costs.

  
(M.S.DESHPANDE)  
VICE-CHAIRMAN

B.