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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 795/94

Transfer Application No:

DATE OF DECISION: 23/12/1994

Shri. Prakash P. Kakde Petitioner

Shri. G.S. Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri. N.K. Srinivasan Advocate for the Respondent/s

CORAM :

The Hon'ble Shri B.S.Hegde, Member (J)

The Hon'ble Shri

- 1. To be referred to the Reporter or not ?
- 2. Whether it needs to be circulated to other Benches of  the Tribunal ?

  
(B.S. HEGDE)  
MEMBER (J)

J\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. 795/94

Shri. Prakash P. Kakde .. Applicant

Vs.

Union of India & Ors. .. Respondents

CORAM : Hon'ble Shri.B.S.Hegde, Member (J)

APPEARANCES

1. Shri. G.S. Walia, Counsel  
for applicant
2. Shri. N.K. Srinivasan, Counsel  
for the respondents

ORAL JUDGMENT

DATED : 23/12/1994

( Per Shri.B.S.Hegde, Member (J) )

Heard the learned counsel.

2. The facts of the case are undisputed. The applicant is working as a Jr.Draftsman in Mechanical Section of DRM's office at Western Railway, Bombay Central, Bombay 400 008 in the scale of pay of Rs. 1,200 - 2,040 (RP). The applicant's father  Shri. Pandurang Shankar Kakde was Marker, who voluntarily retired from Railway Service w.e.f. 17.2.84 after having put in 33 years of qualifying service. His father was in occupation of Railway Quarter Type I No. 24/23 Grant Road Railway Colony.

*Mh*

3. It is further stated that the applicant has joined service in 1979 and has been sharing the accommodation with his father right from 1979 and has not been drawing H.R.A from the year 1979 itself.

4. The learned counsel for the applicant submits that the only condition to be fulfilled for regularisation of quarter from father to his son is that he should be sharing the accommodation with his father for a period of 6 months and he should not draw the H.R.A. Both the conditions have been fulfilled in this case

5. The only objection raised by the respondents in their reply is that the applicant's father voluntarily retired prior to 20.12.89 i.e. date of issue of Railway Board's letter in this respect and hence the said railway quarter cannot be regularised in the name of the applicant though he has fulfilled the other prescribed conditions. The respondents have taken a stand that those who are voluntarily retired, their quarters cannot be regularised in the name of his son or daughter. However, Railway Board's O.M. dated 2/2/90 clarifies the same, which reads as follows :

"The question, as to whether allotment can be made to the dependent of a Rly. employee who seeks voluntary retirement, has been considered in consultation with the Ministry of Urban Development and it has been decided that the dependent of a Railway servant who seeks voluntary retirement would also be eligible for allotment, subject to fulfilment of the prescribed conditions governing allotment/regularisation on retirement of Railway servant as outlined in Board's letters dated 25.6.66, 22.12.1979 and 19.12.1981.

These orders will be effect from the date of

issue.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways".

6. In the light of the above, the stand taken by the Department that those who voluntarily retired, quarters cannot be regularised in the name of their son/daughter does not hold good. It is also an admitted fact that both the father and son have not been drawing H.R.A and have been sharing the same accommodation till the date of his father's retirement. In the circumstances, we do not see any merit in the stand taken by the respondents and we therefore direct the respondents to regularise the quarter occupied by the applicant ~~right~~ from the date of voluntary retirement of his father and recover normal rent as is admissible under the Law. This may be carried-out within a period of 3 months from receipt of this Order.

7. The respondents are further directed to intimate the applicant the arrears of rent (normal) to be paid to the respondents by the applicant and on receipt of the same, applicant shall make payment in suitable instalment which will be fixed by the respondents.

8. O.A is ~~disposed of~~ <sup>allowed and</sup> <sup>above</sup> disposed of with this direction. Eviction order passed by the respondent is hereby quashed.

  
(B.S. HEGDE)  
MEMBER (J)

27/10/96

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

W.R./RSP./C.P. No. 173/95

IN  
O.A. No. 795/94

Shri P. P. Kakde  
V/s

...Applicant

Western Railway

...Respondents

CORAM: Hon'ble Shri S. S. Hegde, Member (J)  
Hon'ble Shri P. P. Srivastava, Member (A)

TRIBUNAL'S ORDER :

DATE: 2.12.96

Heard Shri G. S. Walia, counsel for the applicant. Shri V. S. Masurkar, counsel for the respondents.

The learned counsel for the respondents has produced letter dated 7.8.96. Where in it is stated that Type I Rly. Qtr. No. 24/23 at G.T.R is regularised in favour of Shri Prakash P. Kakde. The respondents have implemented the Judgement. In the circumstances C.P. 173/95 does not survive and the same is discharged.

Certified True Copy

Date .....

Section Officer  
Central Admin. Tribunal  
Bombay Bench

Date : 06/12/96

NO. CAT/Bom/JUDL/O.A. 795/94/8507 of 5510

1. Shri G. S. Walia, Counsel for Applicant.

2. Shri V. S. Masurkar, Counsel for Respondents.

S.O.

Entered on - 9/12/96  
Clerk

Despatched

Q.D.

9/12/96