
(1999) 12 PAT CK 0090
In the Patna High Court
Case No : C.W.J.C. No. 3856 of 1998

Pranab Kumar Majumdar and Others	Vs	APPELLANT
The Union of India and Others		RESPONDENT

Date of Decision : 10-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1999) 12 PAT CK 0090

Hon'ble Judges : S.K. Singh, J; M.L. Visa, J

Bench : Division Bench

Advocate : S.C. Mitra, for the Appellant; A.B. Ojha, for the Respondent

Final Decision : Allowed

Judgement

1. The present writ application under Articles 226 and 227 of the Constitution of India has been preferred against the order dated 12.9.1997 passed in C.C.P.A. No. 17/95, arising out of O.A. No. 342/94 passed by the Administrative Tribunal, Patna Bench, Patna whereby although the findings have been recorded that the respondents contemnors have not complied with the judgment dated 27.4.94 passed in O.A. No. 342/94 but no reliefs have been granted in favour of the petitioners. According to the learned counsel for the petitioners as per the instructions issued by the Chief Personnel Officer contained in letter No. D-886/O Vol-VI dated 7.6.90 when a railway employee who has been allotted accommodation retires from service or dies while 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 was a railway employee eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway employee for at least six months before the date of retirement or death and had not claimed any House Rent Allowance during the period. The same residence might be regularized in the name of the eligible relation if he/she was eligible for a residence of that type or higher type. In other cases a residence of the entitled type or type next below is to be allotted.

2. It has been contended by Mr. S.C. Mitra, learned counsel appearing for the petitioners that all the conditions mentioned in the above cited instructions were fulfilled by the petitioners, still the same quarter has not been allotted to him; rather a different quarter which is still not vacant has been allotted. He has further contended that during the pendency of the consideration of the allotment of the quarter to which the petitioners are eligible, petitioner no. 1 has already been promoted with effect from 12.3.1998 and as such, he was eligible for allotment of the same quarter in which he is residing and the same was earlier allotted in the name of his father.

3. Admittedly, in the present case no vacant quarter has been allotted in favour of the petitioners. The quarter, which is said to have been allotted in his favour, is occupied by other employee of the Railway and as such, the petitioners cannot move into the same. In the meantime, as stated above, petitioner no. 1 has been promoted with effect from 12.3.98 and is entitled to the quarter, which was allotted in the name of his father and as such he, now, fulfils the eligibility condition also. As petitioner no. 1 is fulfilling the eligibility condition and the quarter in question is still in his occupation, we feel that no harm would be committed, if the said quarter is allotted and regularized in favour of the petitioners. For the reasons stated above, we direct the respondents to allot the quarter to the petitioner, which was earlier allotted in the name of the father of petitioner no. 1, if he fulfils the eligibility criteria today.

Thus, the order of the Central Administrative Tribunal dated 12.9.1997 is modified to the extent indicated above and this writ application is, accordingly, allowed.