  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO. 1172/2001

Friday, this the 11th day of May, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

V.P. Pachouri  
S/O Shri Shiv Ram Pachouri,  
R/O 205, B-3,  
Western Railway Colony,  
Tughlakabad, New Delhi-44.

..Applicant

(By Advocate: Shri K.K. Patel)

Versus

Union of India through:

1. General Manager  
Western Railway  
Church Gate, Mumbai
2. Divisional Railway Manager  
Western Railway  
Kota Division  
DRM Office, Kota
3. Senior Divisional Electrical Engineer  
Electrical Loco Shed  
Western Railway  
Kota Division, TRS Tughlakabad  
New Delhi.

..Respondents

O R D E R (ORAL)

Heard the learned counsel for the applicant and perused the material placed on record.

2. By their order of 11.9.1998, the Tribunal had passed the following orders in OA-1749/1997 instituted by the same applicant:-

"12. I would direct that keeping in view his work as a welder and his transfer order as a welder and also in view of the services of the applicant in the accidental loco, he shall be considered as eligible for out of turn allotment under the category of "break down staff". Respondents shall consider this and pass an order about his eligibility within a period of 8 weeks from the date of receipt of a copy of this order. In

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doing so, I direct respondent No.2, the Divisional Railway Manager, Kota Division, Kota to examine all cases of irregularity mentioned above. While doing justice to the applicant, it is not the intention of this court to unsettle the allotments already made or where they are due in accordance with law. But now that we have directed the applicant's case to be consider under the category of break down staff and medical category, if there is any junior to the applicant provided with residential accommodation in these categories, the applicant shall also be considered for allotment under these categories."

3. The respondents filed a Review Application in respect of the aforesaid order which was rejected by the Tribunal. They also applied for extension of time for complying with the same order. That application was also rejected. Thereafter, the applicant moved the Tribunal through CP-52/1999 which was decided in the following terms:-

"2. Respondents' counsel Shri Mahendru informs us that applicant who is at S1.No.17 in the Seniority List of Railway Employees, is to be considered for allotment of a quarter from amongst the 25 quarters in Tuglakabad which are presently under construction and the completion of which is likely to take another two to three months. In this connection Shri Mahendru invites our attention to the affidavit dated 14.2.2000 filed by Chairman, Housing Committee to the above effect.

3. In the light of the above this C.P. is disposed of, calling upon Respondents not to dispossess applicant from the present Railway accommodation in his occupation, till he is considered for allotment of a quarter of the aforementioned 25 quarters under construction."

4. It will be seen that in terms of the aforesaid decision, the respondents were supposed to allot in

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favour of the applicant a quarter from amongst the 25 quarters then under construction in Tuglakabad and until a quarter was so allotted, the applicant was to be allowed to remain in occupation of the house then under his occupation. That house No. is 205/B-3.

5. It appears that instead of allotting a quarter from amongst the newly constructed quarters at Tuglakabad, the applicant was allotted some other quarter, being quarter No. 203/D-4, on 21.9.2000. That house was then under somebody else's occupation. Consequently, the respondents had allotted in favour of the applicant an alternative accommodation, being quarter No. 203/D-4 by their order of 20.4.2001. The applicant wanted time to shift to the said house on the ground of illness of his wife. The applicant had no other objection in this regard. The respondents after consideration refused to extend time for occupation of the aforesaid quarter No. 203/D-4 and by the impugned order of 2.5.2001 cancelled the aforesaid allotment on the ground that the applicant had failed to occupy the same. The respondents have not interfered with the continued occupation of quarter No. 205/B-3. The applicant is still residing in the same quarter.

6. After hearing the learned counsel, I find that while the Tribunal had by its order passed in the aforesaid CP, provided for the allotment of a quarter in favour of the applicant from out of the newly constructed quarters at Tuglakabad, the applicant had, on his own, agreed to be considered for allotment of a quarter

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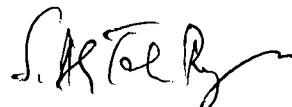
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elsewhere and it is this tacit agreement on the part of the applicant which has led to the allotment of the aforesaid quarter Nos. 205/B-3 & 203/D-4 in his favour one after the other. In the circumstances, I find that the applicant has really no case and he cannot seek any relief by filing the present OA.

7. This Tribunal's order passed in the aforesaid CP is yet to be complied with, however. Since the allotment of quarter No. 203/D-4 last allotted to the applicant has been cancelled by the impugned order, the applicant will be entitled to the allotment of a quarter from amongst the newly constructed quarters at Tuglakabad in terms of the order passed in the aforesaid CP. The respondents are accordingly directed to comply with the same order of this Tribunal and again, as provided in the said order, they will permit the applicant to keep on residing in quarter No. 205/B-3 till then.

8. The OA is accordingly disposed of in the aforesated terms at this stage itself even without issuing notices to the respondents. No costs.

9. Registry is directed to send a copy of the OA along with this order.

  
(S.A.T. Rizvi)  
Member (A)

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