

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

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O.A. No./T.A. No. 2113 of 1994 Decided on: 17.11.97

Western Railway Employees  
Union: Branch Delhi & Anr.  
(By Advocate: Shri B.B. Raval)

Applicant(s)

VERSUS

U.O.I. & ~~ANX~~/Ors.

Respondents

(By Shri Romesh Gautam)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

*S.R. Adige*  
(S.R. ADIGE)  
VICE CHAIRMAN (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

O.A. No. 2113 of 1994

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New Delhi, dated this the 17<sup>th</sup> November 1997

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Western Railway Employees Union,  
Branch: Delhi Kishan Ganj, Delhi  
(Regd., Recognised and  
Affiliated to H.M.S. and A.I.R.F.,  
Delhi) through its  
Chairman,  
Delhi Branch of Western Railway,  
Employees Union  
Shri R.D. Choudhary,  
S/o Shri D.L. Choudhry,  
R/o 6/9, Sewa Nagar  
Railway Colony,  
New Delhi-110003.

2. Shri Shiv Singh,  
S/o Shri Gyasi Ram,  
R/o B-492, Camp No.1,  
Nangloi,  
Delhi-110041.

... APPLICANTS

(By Advocate: Shri B.B. Raval)

VERSUS

1. Union of India through  
the General Manager,  
Western Railway,  
Churchgate,  
Bombay.

2. The Sr. Accounts officer  
(Foreign Traffic Accounts),  
Western Railway,  
Kishan Ganj,  
Delhi-110007.

3. Shri Shekar K. Shah,  
Liaison Assistant,  
O/o the Chief Accounts officer  
(Foreign Traffic Accounts),  
Western Railway,  
Kishan Ganj,  
Delhi-110007.

.... RESPONDENTS

(By Advocate: Shri Romesh Gautam for  
R-1 & 2  
Shri George Paracken for R-3)

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J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

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Applicant No.1, which is Western Railway Employees Union, through its Chairman Shri R.D.Choudhary and Applicant No.2 Shri Shiv Singh have impugned the out of turn allotment of accommodation to Respondent No.3 Shri Shekhar K. Shah and seek a direction to respondents to allot Railway Pool Accommodation strictly in terms of priority list according to rules and regulations without jumping the queue for extraneous considerations. Costs have also been claimed.

2. The Western Railway have approximately 180 employees in Delhi and there are 80 quarters in the Western Railway Employees Pool Accommodation. Applicants as well R-3 belong to Western Railway and are posted in Delhi. We note that in the General Category List for out of turn allotment of accommodation the applicant No.2 was at Sl. No.12 having been registered on 4.9.85 while R-3 was at Sl.No.33 with registration dated 12.7.88 (Ann. A-3). We also note that in the Essential Category List (Annexure A-4), the name of R-3 did not feature anywhere. A Housing Allotment Committee had officially been constituted to make recommendation regarding out of turn allotment of accommodation in Essential/Deserving cases. The Housing Allotment Committee met on 2.2.93 (Ann. A-1) which unanimously decided that Respondent No.3 cannot be allotted

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accommodation on out of turn allotment basis. It appears that thereupon FA & CAO, Western Railway by its letter dated 26.10.93 (Ann. R-1) intimated the setting up a Liaison Office of Western Railway in Delhi and one of Accounts Assistant was classified as "Essential Intermittent" and it was stated that the incumbent of that post (R-3) would perform Liaison work of Western Railway in Delhi. Thus the post held by R-3 was selected for performance of the said duties. It was further stated that he would be allotted the first available vacant quarter on out of turn basis. This was followed by SAO/FTA's Office letter dated 14.12.93 (Ann. R-2) that the duties to this post were treated as continuous and essential nature and this post was also treated as essential for the allotment of railway quarter. The matter again came before the Housing Allotment Committee on 17.5.94 which again recommended that R-3 was not entitled to allotment of first available railway quarter, falling vacant on out of turn allotment basis and for the present he only be registered for out of turn allotment and his case thereafter be taken in seriatim.

3. Thereafter by confidential Memo dated 19.10.94 (Ann. R-3 to official Respondents' reply dated 4.12.96), it appears that despite the earlier rejection, the Housing Allotment Committee chaired by SAO (FTA), Ishanganj, Delhi is stated to have given an assurance to FA & CAO to allot the first available Type II quarter to R-3. Accordingly SAO (FTA) Kishan Ganj

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was directed to immediately allot the first available Type II quarter to R-3 on out of turn basis and to treat it as 'Most Urgent'/'On Top Priority'. What the urgency was, and why it was to be on top priority in face of successive recommendations of Housing Allotment Committee against such out of turn allotment to R-3 has also not been satisfactorily explained. Again from letter dated 19.10.94 (Ann. R-3 to official Respondents' reply dated 4.12.96) it is clear that the FA & CAO located in Bombay telephoned the Dy. CAO located in Ajmer communicated his extreme displeasure in the delay in making out of turn allotment to R-3. The Dy. CAO in turn asked the SAO in Delhi for reasons for non-compliance, and directed him to apprise R-3 of the reasons of non-compliance and the future course of action, including communication of immediate allotment of quarter on out of turn basis. We wonder whether the concerned Railway officials displayed similar concern and solicitude for their other employees also? On the receipt of this letter dated 19.10.94, the SAO (FTA) Kishanganj, Delhi sent a detailed note on 22.10.94 (Ann. R-4 to official Respondents' affidavit dated 4.12.96) explaining the position and seeking further guidance in the matter. In the note, it was pointed out that no assurance was given to R-3 or anyone else that a quarter would be allotted to him on out of turn basis. It was further pointed out that upon receipt of letter dated 24.12.93 treating post of Liaison Assistant held by applicant as essential for the purpose of allotment of railway quarter, his name

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was got registered at Sl. No.7 while 6 Section Officers (Accounts) were waiting for allotment of quarter in essential category before him. It is further pointed out that in the Housing Allotment Committee meeting held on 17.5.94 all the participants had expressed their complete disagreement to allot a quarter to R-3 on out of turn basis, but they had no objection to his registration in the essential category register. It was further pointed out that on receipt of the aforesaid telephonic message a special Housing Allotment Committee meeting was convened, in which SAO (FTA) had requested the participants to consider out of turn allotment to R-3 in the light of General Manager, Western Railway's instructions communicated through FA & CAO, but the participants had unanimously disagreed to allot first available quarter to R-3 on out of turn basis. Reference was made to the legal notice received in this regard on behalf of Chairman, Western Railway Employees Union, Delhi Branch, a gate meeting held on 21.10.94 to protest against out of turn allotment to R-3 and the contents of letter dated 16.1.81 which clearly laid down that if there were extenuating circumstances, the Committee may recommend unanimously out of turn allotment for consideration of competent authority but if the three members did not agree, no recommendation would be made for such allotment. It was pointed out that if despite all that had been stated above, out of turn allotment to Respondent

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No.3 was considered, it would cause grave resentment amongst the staff followed by legal action. However, if it was still felt necessary to allot a quarter to Respondent No.3 on out of turn basis, a suggestion was made to allot the vacant quarter Type II No. 13-A/1, Punjabi Bagh, Railway Colony, New Delhi.

4. Meanwhile the present O.A. was filed on 21.10.94 and an interim order was passed on 24.10.94 making any out of turn allotment subject to the outcome of this O.A.

5. Despite the aforesaid objection raised by Sr. Accounts Officer (FTA), the FA & CAO, Bombay in his letter dated 25.10.91 (Annexure R-1) communicated General Manager's approval to the allotment of the first available vacant quarter to Respondent No.3 in terms of Railway Board's order dated 17.9.93 (not filed) and giving to the extent of specifying the particular quarter (No.109/7, Thompson Road, Minto Bridge, New Delhi) which was to be allotted to him. Compliance of the above directions were sought and it was stated that as the same was being done in accordance with the Railway Minister's Executive orders, the HAC's recommendations were not required.

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6. Accordingly by order dated 14.5.95 the aforesaid quarter No. 109/7, Thompson Road, Minto Bridge, New Delhi was allotted to Respondent No.3 on its vacation by the erstwhile occupant consequent to his superannuation. The allotment was made subject to the outcome of this O.A. We are informed that Respondent No.3 occupied it on its vacation by the erstwhile occupant Shri Gopesh Chaturvedi on 8.7.95.

7. During hearing we were informed that pursuant to the order dated 14.12.93 placing Respondent No.3 in the essential category for purposes of allotment of accommodation on out of turn basis, he was placed at Sl. No.15 (Revised positioned at Sl. No.7<sup>1</sup> if we strike off the names of all those persons on that list who had already been allotted accommodation on out of turn basis) and the persons immediately above him at Sl. No.14 (Old Sl. No.6) Shri A.H. Khan was transferred out of the Division on 6.9.93 whereas R-3 was registered for out of turn allotment on 14.12.93. The relevant register was also shown to us and it has been pointed out that it was duly signed by the representatives of the Union.

8. It was also contended during hearing that Shri R.D. Choudhary was no longer Chairman, WREU, Delhi Branch and that both Shri Choudhry as well as Applicant No. 2 had since been allotted accommodation.

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(X3)

9. After going through the facts of this case to which we have adverted at some length in the preceding paragraphs, we are left with the impression that the official respondents went out of their way to ensure that R-3 was allotted accommodation on out of turn basis. Successive recommendations of the Housing Allotment Committee against making allotment on out of turn basis to him were disregarded by the concerned authorities. The argument advanced was that the Railway Minister has the discretionary power to allot accommodation on out of turn basis and the said power has been delegated to the <sup>General Manager</sup> / who has exercised this power through his subordinates, and in exercise of this power the consent of the Housing Allotment Committee was not required to be taken vide letter dated 25.10.94 (Ann. R-1). The contents of circular dated 5.6.78 (Ann. R-3) have also been pressed strenuously in support of this argument that allotments of quarters on priority basis are out of the purview of the Housing Allotment Committee which cannot sit in judgment over the decision of the G.M., Western Railway who acted as per directions of the Railway Minister.

10. If all allotments of accommodation were made strictly in turn as per seniority list, the question of setting up a Housing Allotment Committee would not normally arise.

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Manifestly the Housing Allotment Committee was set up by the Respondents themselves to make recommendations in regard to allotment of accommodation in deserving cases on out of turn basis, and that being so the recommendations of the Housing Allotment Committee are entitled to due consideration by the official Respondents. Even if these recommendations were not binding on the concerned authorities and could be overruled by them, the reasons would need to be recorded to justify departure from those recommendations. In the present case, we are compelled to conclude that finding the recommendations of the HAC against making out of turn allotment to R-3 in ~~convenience~~ to themselves, the official Respondents adopted the device of appointing the applicant as a Liaison Assistant in the newly opened Liaison Office, Western Railway, New Delhi, and declaring that he would be responsible for round-the-clock duties for which purpose it was essential that he be allotted a Railway Quarter on out of turn basis. Furthermore, after making him entitled to allotment of accommodation on next available vacancy basis, in actual fact the next available quarter namely No. 13-A/1, Punjabi Bagh Railway Colony, New Delhi, which the Senior Accounts Officer had intimated was immediately

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available for occupation was not allotted to the applicant, but thereafter Qr. No. 119/7, Thompson Road, Minto Bridge, New Delhi which is undoubtedly located in a prime area was allotted to him, although, admittedly after some waiting. We asked Respondents' counsel Shri Gautam as to why Qr. No. 13-A/1, Punjabi Bagh Railway Colony, New Delhi was not allotted to the applicant when it was reported to be vacant by the Sr. Accounts officer. He stated that the said quarter was separately being processed for allotment to another person, and further stated that he would show us the necessary records to establish this statement, but till the date of pronouncement of this judgment no such records were shown to us.

11. The question then arises as to whether we should judicially intervene in this matter. We note in the O.A. itself, the relief prayed for by the applicants was only to direct the Respondents to allot Railway Pool accommodation strictly in terms of priority list according to the rules and regulations without jumping the queue for extraneous considerations. No doubt during the pendency of the O.A., upon Qr. No. 119/7, Thompson Road, Minto Bridge, New Delhi being allotted to the Respondent No.3, applicants subsequently filed M.A. No. 2827/95 seeking to amend the O.A. inter alia seeking specifically to quash the order dated 14.7.95 allotting the said quarter to Respondent No.3

109/7  
Converted vide  
court order  
dated 14.2.98  
joined in M.A. 388/95  
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23/4/98

but we are informed that Shri R.D. Choudhary as well as Shri Shiv Singh have also been allotted accommodation from Railway Pool, and <sup>if</sup> ~~that extent~~ <sup>be seen</sup> they cannot have <sup>any</sup> grievance in their individual capacity regarding non-allotment of accommodation. It may be mentioned that during hearing Shri Gautam contended that Shri Choudhary is no longer Chairman of the Western Railway Employees Union, Delhi Branch, and no resolution of the aforesaid Union has been shown to us authorising Shri Choudhary to file this O.A. on behalf of the Union. Further more we note that ~~it~~ is not as if R-3 was allotted accommodation in the prime area near Minto Bridge immediately the order dated 14.2.93 placing him in the essential category was passed, but he had to wait <sup>for</sup> over 1½ years till he actually got occupation of the said quarter on Thompson Road on 8.7.95.

12. Under the circumstances, while we must record that we are not happy with the manner in which the aforesaid quarter No. <sup>109/7</sup> ~~119/7~~ Thompson Road, Minto Bridge, New Delhi was allotted to R-3, having regard to the overall facts and circumstances of the case as discussed above, we do not propose to interfere in that particular allotment at this stage. However, we would reiterate in clear and unequivocal terms that the

Corrected  
vide letter  
dated  
19.2.98 passed  
by MA 348/10

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allotment of Railway Pool accommodation should be made by Respondents strictly in accordance with rules and regulations on the subject as prayed for in this O.A. and while doing so Respondents should keep clearly in view, what has been stated in this judgment.

13. The O.A. is disposed of in terms of Para 12 above. No costs.

*A. Veda Valli*

(DR. A. VEDAVALLI)  
Member (J)

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*S. R. Adige*

(S.R. ADIGE)  
Vice Chairman (A)