

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2050/91
T.A. No. 198

DATE OF DECISION 30th Jan., 1992.

All India SC/ST Railway
Employees Association & Anr.

Applicant (s)

Shri S.C. Luthra

Advocate for the Applicant (s)

versus
Union of India & ors.

Respondent (s)

Shri P.S. Mahendru

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

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(J.P. SHARMA)
MEMBER (J)

D.K. Chakravarty

(D.K. CHAKRAVARTY)
MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO.OA 2050/91

Date of decision: 30th Jan., 92.

All India SC/ST Railway Employees
Association and Anr. ... Applicants

Versus

Union of India & Ors. ... Respondents

CORAM:

THE HON'BLE MR.D.K.CHAKRAVORTY, MEMBER(A)
THE HON'BLE MR.J.P.SHARMA, MEMBER(J)

For the Applicants ... Sh.S.C.Luthra,
Counsel.

For the Respondents ... Sh.P.S.Mahendru,
Counsel.

JUDGEMENT

(JUDGEMENT OF THE BENCH DELIVERED BY
HON'BLE MR. J.P.SHARMA, MEMBER(J))

Applicant No.1 along with Shri M.P.Kakrelly filed this application under Section 19 of the Administrative Tribunals Act, 1985 being aggrieved by non-allotment of suitable accommodation for housing the Association's zonal office in New Delhi in pursuance of the Railway Board's letter dated 9.2.1960(Annexure A-1). The aforesaid letter provides " it has been represented that Railway buildings are seldom being made available in practice to recognised unions for housing their offices. The Board consider that, wherever possible, this facility should be extended to the recognised unions, on the terms referred to in Board's letter No.E(L) J

58UTI-67 dated the 11th September, 1958".

2. The relief claimed by the applicants is for a direction or order commanding the respondents to allot Quarter No.13/1, Railway colony, Sewa Nagar, New Delhi or any other suitable accommodation to the applicants' Association for its zonal office in the name of Applicant No.2 in his capacity as organising Secretary of North-East Zone.

3. The facts of the case are that the All India SC/ST Railway Employees Association (hereinafter called the 'Association') is a society registered under the Societies Registration Act, 1860. It is stated that in order to co-ordinate the activities of the zonal office with ^{the} central office of the Association and the Railway authorities, he was co-opted as a member of the central executive committee of the Association in order to take up the grievances and other service matters of SC/ST employees with Railway Board and the Northern Railway Headquarters at New Delhi. It is stated by the applicants that the Association is being meted out step motherly treatment at the hands of those who matter because of deep rooted in-born prejudices against SCs/STs who are

not only the weaker sections of the society but are most exploited ones and the neglected lot in spite of very laudable pronouncements by the Government to the contrary. It is stated that every Association is provided with the facility while the applicants' Association is not so provided. The applicants have also given a list of such premises allotted to other Associations. It is stated that the zonal office of the Association functioned from Quarter No.13/1 Railway Colony, Sewa Nagar, New Delhi which was vacated by Shri Dashrath Prashad. The applicant No.2 applied to D.S.E(Estate) Northern Railway to allot the said quarter in his name or in the name of zonal office of the Association(Annexure A-5). However, that has not been done in spite of assurance given to the applicant No.2 by Shri Y.P.Anand(G.M Engineering) and the D.S.E(Estates). Eviction proceedings were taken against the applicant No.2 and Shri J.S.Jolly, Estate Officer passed an order on 29.4.1991 for eviction from the said quarter of applicant No.2 or any other person. The applicant No.1 went in appeal

before the District Judge and there an undertaking was given to vacate the quarter by 27th August, 91 and the appeal was disposed of on the basis of that undertaking. In spite of correspondence by certain high-ups, the quarter has not been regularised nor any other accommodation allotted to the zonal office i.e. applicant No.1. In view of this, the present application has been filed for the relief prayed for as stated above.

4. The respondents have contested this application and taken a preliminary objection that it is not a service matter, so the jurisdiction of the Tribunal is barred. It is further stated that the application has not been signed/verified by any competent person on behalf of applicant No.1. However, on merit, it is stated that the applicant No.2, who is a Conductor Guard had broken open the railway pad locks of Quarter No.13/1, Sewa Nagar, New Delhi and occupied the same forcibly by taking the law in his hands. A report to that effect was lodged to the Police Station, Lodhi Colony, New Delhi (Annexure R1 to the counter). The applicant No.2 was also served with the show cause notice but he did not vacate the said quarter. So

action under the Public Premises(Eviction of Unauthorised Occupants) Act,1971 was taken and the Estate Officer vide his order dated 29.4.1991(Annexure R-3)dircted applicant No.2 to vacate the said premises. He preferred an appeal against the said order of eviction before the District Judge and the same was decided on 27.5.91 and an undertaking was given to vacate the quarter by 27th August,1991. It is stated that applicant No.2, who occupied the aforesaid quarter illegally by breaking open the locks is a mere trespasser therein. It is stated that there was never any assurance to applicant No.2 to continue the zonal office of applicant No.1 in the Railway quarter in question. The present application has been filed only as pressure tactics to get regularised the criminal act of applicant No.2. It is stated that the application be dismissed.

5. We have heard the learned counsel for both parties and have carefully gone through the records of the case.

6. The preliminary objection raised by the respondents that the Tribunal has no jurisdiction in the matter of allotment to an Association

of employees has no force in view of the fact that the letter dated 11.9.58 referred to in Board's letter dated 15.2.60(Annexure A1) makes it a service condition for the members of the Association to use a premises of the Railways and wherever possible this facility should be extended for housing the offices of the Associations. In view of this, the preliminary objection has no force.

7. However, the facts of the case are a bit peculiar. It appears that on 2.12.1988 Shri M.P.Kakrelly, Conductor, North Eastern Railway, Lucknow addressed a letter to the D.S.E(Estate) Northern Railway, New Delhi stating that his wife had died in May, 1988 and he has minor children and Shri Dasrath Prashad had given him shelter in Quarter No.13/1, Railway Colony, Sewa Nagar, New Delhi and the said quarter, therefore, be allotted to him. Thus Shri M.P.Kakrelly wanted the said quarter to be allotted in his name though in the garb of the Association for his own and his family's use. There is no ~~such~~ provision under which a person who is posted under the DRM, Lucknow, North Eastern Railway, can be allotted a quarter at Delhi.

8. The applicant, with the rejoinder, has filed the constitution of All India Scheduled Castes and Scheduled Tribes Railway Employees Association(Annexure A 23). Item (xx) of this constitution specifically lays down that the office of the Association, other than the Head Office viz-office of the zones Divisions and Branches will be located at their Head Offices or at the place decided by the concerned Committees. The letter goes to show that the headquarters of the North Eastern zone is at Gorakhpur as is evident by the memorandum dated 26.7.89(Annexure 22) to the rejoinder. Thus the prayer for the zonal office for getting the allotment as a matter of right at Delhi is against the spirit of the constitution of the Association.

9. Even otherwise also we find that by the Estate Officer, the applicant No.2 was issued a notice and an order of eviction and damages was passed against him. The damages were allowed by the Estate Officer to be calculated by the Department as per extant rules. The appeal filed against this order of the Estate Officer has ^{disposed of} since been /and there an undertaking was given by applicant No.2 to vacate the said quarter by 27.8.1991(Annexure R/4 to

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counter). That undertaking was given on 27.5.1991 and three months' time was allowed.

10. As regards the notification of the Railway Board of 1960 (Annexure A-1), it clearly provided, as quoted above, that wherever possible, the facility should be extended for the office of the Association but the question remains whether the zonal office, Gorakhpur as a matter of right can ask for allotment of a quarater at Delhi where already / building was occupied by All India Scheduled Castes/Scheduled Tribes Railway Employees Association(Central), New Delhi. If this allotment of the zonal Association is taken into consideration as an outcome of the said Notification of 1960(Annexure A-1), there are many such zones and even in that case discretion is with the D.S.E, Northern Railway, New Delhi.

11. The applicants have also referred to various correspondence which only gives an indication that a recommendation was made for allotment of premises but that did not find favour with the administration. In this aspect of the matter, the Tribunal would be reluctant to interfere at a time when there is shortage of availability of accommodation and there is all round pressure

on the respondents for accommodating the Railway employees themselves.

12. The applicants have also taken a plea that they have been discriminated against in the matter of allotment of premises to the zonal office while in the case of other Associations the premises have been made available. In this connection, the applicants have annexed the details of the accommodation allotted to NFIR and AIRF and their affiliate unions at Delhi(Annexure A-5A). This by itself does not indicate that the allottees in these cases housed their zonal offices in the said premises allotted to them. What is made out from this document is that the office bearers of NRMU and AIRF have been allotted certain premises and there is no mention of any zonal office stationed at Delhi. Nor any such allotment orders has been filed by the applicants to show any discrimination.

13. Shri M.P.Kakrelly, applicant No.2 is only an executive member of the All India Scheduled Castes and Scheduled Tribes Railway Employees Association(Central) Delhi and / the allotment is to be made to the executive member in his personal capacity, there should be

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some specific circulation of power or anything provided as a part of the service conditions either for the person concerned or for the Association. That has not been done. So, there is no case of discrimination meted out to the applicants.

14. In view of the above, we are of the opinion that the present application is devoid of merit and is accordingly dismissed.

There will be no order as to costs.

J. P. Sharma
(J.P.SHARMA) 30.1.92
MEMBER(J)

D. K. Chakravorty
(D.K.CHAKRAVORTY) 30.1.92
MEMBER(A)

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