

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1473 of 2001

Allahabad this the 23rd day of July, 2004

Hon'ble Mrs. Meera Chhibber, Member (J)

Yashwant Kumar Rao a/a 36 years, S/o Shri Saha Ram,
R/o T-2/D, Railway Colony, Prayag, Allahabad.

Applicant

By Advocate Shri A.K. Dave

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow.
3. Senior Divisional Signal & Telecom Engineer, Northern Railway, Lucknow.
4. Senior Section Engineer, Signal, Pratapgarh.
5. Junior Engineer, Signal Prayag, N.R. Allahabad.
6. Moti Lal S/o Bhulai, Working as Lohar (Black Smith) J.E. Signal II, Prayag, Northern Railway, Allahabad.

Respondents

By Advocate Shri Prashant Mathur

O_R_D_E_R (oral)

By this O.A. applicant has sought the following reliefs:-

" (a) To quash the impugned allotment order of quarter no. S.E.1 (B) dated 3.7.2001 (Annexure No. A-I) in favour of respondent no. 6 Moti Lal.

(b) To direct the respondent to allot the quarter

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no. SE-1(B) in favour of the applicant according to his turn and his eligibility under the rules..

(c) To issue any other or further direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(d) To award cost of the petition."

2. The grievance of the applicant in this case is that he was allotted Type I quarter on 12.11.1991 when he was working as Helper Khalasi. Thereafter he appeared for the post of Electrical Signal Maintaining (For short E.S.M.) Grade II and was declared successful therein. He was sent for training which too was completed by him successfully and on 21.12.2000 applicant was posted as E.S.M. Grade II in the scale of Rs.4000-6000 at Phaphamau(page 60). It is submitted by the applicant that on being posted as E.S.M. Grade II he became entitled to Type II quarter, therefore, he gave his application to respondent no. 4 on 17.08.1999, 26.12.2000 and 17.04.2001 for allotment of Type II quarter, but yet when a quarter(Type II) got vacated at Prayag on 27.06.2001, same was allotted by respondent no.5 in favour of one Shri Moti Lal, Black Smith-respondent no.6, even though he had applied on that very date i.e. 27.06.2001(page 20).

3. It is submitted by the counsel for the applicant that applicant belongs to essential category and since he had applied prior to said Shri Moti Lal, therefore, there was no justification in allotting the quarter to Shri Moti Lal. Being aggrieved, he gave a representation to the D.R.M. on 12.07.2001, which was duly received by the Office of

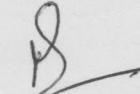
D.R.M. (page 21) but no reply was given to him, therefore, he had no other option but to file the present O.A.

4. The respondents have filed their reply through respondent no.5 who has stated that Shri Moti Lal was having no Govt. accommodation at Prayag and his application was already on record and he was put at serial no.1 in the priority register, whereas no such application was received from the applicant till date in the Office of respondent no.5, therefore, he is not entitled to get the name entered in the priority register specially when he had already ^{been} allotted railway accommodation no.T-2/D Railway Colony, Prayag by the competent authority. He has submitted that this O.A. is not maintainable as applicant has not exhausted the departmental remedy available to him under the relevant rules, therefore, this O.A. is premature and is liable to be dismissed on this ground itself. He has further ^{on} stated that merely passing the examination of Electrical ^{become} Signal Maintainer, applicant will not ipso facto ^{be} entitled for upgradation of the quarter. The concept of maintaining the priority register was evolved by the administration so that requests of the individuals can be registered as per their requests and as per their turn. He has stated that there is no application dated 06.12.00 or application dated 17.04.01 ~~is~~ available on record. ^{that} He has also submitted not only the applicant but another staff of the department, are ~~as~~ ^{also} essential and sensitive staff, and even Shri Moti Lal is of essential category and had a right to be allotted Type II quarter.

5. The applicant has stated in his rejoinder categorically that he had given applications for allotment of Type II quarter to respondent no.4, who is applicant's controlling authority. ^P

6. At the outset counsel for the applicant had taken an objection that the reply filed by Junior Engineer i.e. respondent no.5 cannot be accepted as the O.A. is against his arbitrary action, therefore, a person senior to him should have filed the counter-reply. However, in the counter-affidavit the respondent no.5 has categorically stated that he has been authorised by the other respondents to file the C.A. Therefore, we presume that he must have been authorised by the department to file the present counter-affidavit.

7. In the counter affidavit respondents have stated that the applicant has not exhausted the departmental remedy available to him, whereas applicant has annexed his representation which was addressed to the Divisional Railway Manager (page 21), which is duly stamped for having been received in the Office of D.R.M. In any case even if this representation has not been received in the office of respondents, as stated by the respondents, copy of this O.A. has already been served on the respondents which includes the representation dated 12.07.2001 at page 21 of the paper book. Since applicant has already given his representation to the D.R.M. and respondent no.5 has stated categorically that applicant has not exhausted his departmental remedy, this O.A. is being disposed off by giving direction to respondent no.2 to inquire into the matter and after considering the grievance of the applicant, pass appropriate order in accordance with law within a period of 3 months from the date of receipt of a copy of this order under intimation to the applicant. No order as to cost.



Member 'J'