

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH

ALIAHABAD

DATED: THIS THE 18TH DAY OF OCTOBER, 1996

HON'BLE MR. S. DAS GUPTA A.M.

CORAM : HON'BLE MR. T. L. VERMA J.M.

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ORIGINAL APPLICATION NO. 661/95

Amrendra Kumar Singh S/O Prabhu Nath Singh,

Resident of Mohalla Gorakhnath,

District : Gorakhpur. working as

Head Clerk in the office of the

Statistical Officer, N. E. Railway,

Gorakhpur. -.-.-.-.- Applicant

C/A Sri Bashisht Tewari.

VERSUS

1. Union of India through

General Manager,

N. E. Railway, Gorakhpur.

2. Statistical Officer, N.E. Railway,

Gorakhpur.

3. Chairman, Housing Committee,

N.E. Railway, Gorakhpur.

4. Dy. F.A. & C.A.O.(T),

N.E. Railway, Gorakhpur..... Respondents

C/R Sri P. Mathur

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ORDER ( ORAL )

By Hon'ble Mr. S. Das Gupta A.M.

This application has been filed under section 19 of the Administrative Tribunals Act, 1985, seeking a direction to the respondents to allot quarter no. 348 of Calcutta Colony, N. E. Railway, Gorakhpur or any other quarter, which may be available for allotment on out of turn basis to the applicant. He has also prayed that the rule 4(b) of quarter allotment rules be declared *ultra vires* of the Constitution.

2. The applicant has averred in his O. A. that he had represented for allotment of quarter on out of turn basis to him on medical ground. Assistant Statistical Officer had written a letter to the Chief Medical Officer, L. N. Misra, Medical Hospital Gorakhpur regarding the allotment of the quarter on out of turn basis and on that letter G. M. (Medical) had affirmed the applicant's claim. Authorities are stated to have given notes in his favour. However, no allotment has been made to him. Hence this application.

3. The applicant's case is that since there are 27 quarters in type II to which he is entitled, there should be at least two quarters in 5% quota for out of turn allotment on medical ground. Allotment of quarter was made on out of turn basis to the staff at serial no. 5. Accordingly 20th quarter should also be allotted on similar basis. The applicant claims that he was, therefore, entitled to be allotted the quarter on out of turn basis.

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4. Rule 4(b) of Quarter Allotment Rules has been assailed on the ground that it envisages 5 % of the vacancies to be earmarked for out-of-turn allotment. Learned counsel for the applicant argued that since the vacancy of quarters will be few and far between, 5 % of such vacancy will not work out, to any rational number.

5. The respondents have filed C. A., in which it has been stated that the applicant has utterly failed to come out with cogent reasons to invoke the Tribunal's jurisdiction. The plea of limitation has also been taken. Their further case is that there is only 27 type II quarters. 5% of 27 quarters comes to only one quarter. Since one quarter has already been allotted on out-of-turn basis, no further quarter could be allotted on similar basis.

6. We have heard the learned counsel for both the parties and perused the records.

7. We are unable to accept the contention of the learned counsel for the applicant that 5 % of 27 quarters would work out to two. 5 percent of 27 quarters works out precisely to 1.35. Had it been 1.5 or above, one could say that two quarters should be allotted in this quota. We, therefore, accept the contention of the respondents that only one quarter could have been allotted on out of turn basis out of 27 quarters and since admittedly one quarter has already been allotted on out-of-turn basis, there is no scope of claim for further out-of-turn allotment.

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8. So far as the vires of rule 4 (b) is concerned, no doubt wording of the rules is not very happy. The wording should indicate that the percentage is to be applied to the total numbers of quarters in a particular type. We would only suggest that the respondents may consider whether the wording in the said rule shall be appropriately modified to correctly reflect the intent of the rule framed in this connection.

9. As there is otherwise no merit in the case, the application is dismissed accordingly. Parties shall bear their own costs.

*J.M.*  
J.M.

*A.M.*  
A.M.

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