

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

8

O.A. No./201/90
T.A. No.

DATE OF DECISION 14/5/1993

Hareshkumar C.Yadav and
Chhaganlal J.Yada.

Petitioner

Mr.B.B.Gogia

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondent

Mr.R.M.Vin

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt

: Judicial Member

The Hon'ble Mr. M.R.Kolhatkar

: Administrative Member.

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. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

Shri Hareshkumar Chhaganlal,
Hindu, Adult, aged about 29 years,
Occupation : Service,
Tea Boy, Railway Workshop Canteen,
Bhavnagar-Para

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2. Shri Chhaganlal Jivabhai Yadav,
Hindu, Adult, Aged about 58 years,
Occupation : retd. Rly. Employee,

Address of both :
Railway quarter no. 326/A,
Railway quarters,
Bhavnagar-Para.

.....applicants

Advocate Mr. B. B. Gogia

Versus

1. Union of India,
Owning & Representing
Western Railway, through
General Manager,
Western Railway,
Churchgate,
Bombay-400 020

2. Works Manager,
Western Railway Works Shop,
Bhavnagar-Para.

.....respondents

Advocate Mr. R. M. Vin

J U D G E M E N T

O.A./201/90

Date : 14/5/93

Per : Hon'ble Shri M. R. Kolhatkar,
Administrative Member.

1. This is an original application
under section 19 of the Administrative Tribunals Act,

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1985 in which the Applicant no.1 who was a substitute Tea-Boy, in Railway Workshop Canteen, Bhavnagar Para sought the relief of allotment of Railway quarter no.326/A in his favour from 01-5-90 being the quarter regularly allotted to the Applicant No.2, his father, who worked as Chargeman "B" ,Machine in the pay scale of Rs.1400-2300 (RP) till he retired on 31st December,1989. The Applicant No.2 has ~~k~~ already been permitted by respondents to retain the quarter for 4 months from the date of retirement i.e. upto the 30-4-90. On 2nd May,1990, this Tribunal had,by way of interim relief,restrained the Respondents from evicting the Applicant (No.1) from quarter no. 326/A. It was also made clear that if the application is ultimately dismissed, the Applicant shall be liable to pay the rent at the market rate. This interim relief has been continued from time to time till the date of final hearing.

2. At the time of application viz. 14-4-1990, the applicant was as mentioned earlier a substitute Tea Boy in the Railway Workshop Canteen, Bhavnagar Para. Subsequently, by the order dated 20-4-1990 vide Annexure R/4 , he was placed on the panel provisionally for regular absorption as a Canteen Tea Boy in the pay scale of Rs.750-940/-R.P.

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The applicant relies on the Annexure A/5 which is a letter dated 23-3-1990, conveying the advice of Law Officer (Western Railway) on the earlier order of this Tribunal dated 9-10-1989 (vide Annexure A/1) This order of the Tribunal directed the Respondents to allow the Applicant No.1 continuity of service for regularisation and retirement benefits from 27-5-1985 The order does not at all refer to the question of allotment of quarters. However, the advice appears to have been sought by Respondent no.2 and the same is in following terms.

" As regard the allotment of quarter, it is further advised that when the C.A.T. has considered his regular appointment on and from 27/5/85 i.e. before retirement of his father, the request of the petitioner for allotment of quarter appears to be justified if other conditions of sharing etc. fulfilled."

3. The applicant also relies on Railway Board letter dated 27-2-1971 reproduced at Annexure A/6. This is in following terms.

" In accordance with the orders contained in their letter referred to above in the case of a railway servant who having been allotted railway accommodation, retired from service^{or} died in service, his/her son, daughter, wife, husband or father may be allotted railway accommodation on out of turn basis provided that the said relation is a railway servant eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway servant for at least six months before the date of retirement or death."

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4. It would be seen that the preconditions for out of turn allotment of Railway accommodation as mentioned above are the following.

1. The relation of Railway servant is a railway servant eligible for Railway accommodation.
2. The relation should be sharing accommodation with the retiring Railway servant for at least 6 months before the date of retirement ~~servant~~ / death of ~~him~~ a Railway servant.

5. The Respondents, in their reply have stated that applicant no.2 is not entitled to allotment of Railway quarters in occupation of his father viz Applicant No.2 *in view* of the following reasons.

1. The applicant no.1 had not applied for sharing of the accommodation with his father and he had not been granted any such permission to share.
2. The latest instructions of the Railway Board dated 11-4-1983 vide Annexure R/3 stipulate that the out of turn allotment can be made to a son etc. of the Railway servant only if he is in regular service and had been sharing accommodation for a period of 6 months before the date of retirement/death of Railway servant. The

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The applicant no.1 was placed on the panel provisionally for regular absorption on 20-4-90; therefore, the essential conditions referred to in the Railway Board's letter dated 11-4-83, were not satisfied.

6. In his rejoinder, the applicant stated that he could not seek the permission to share accommodation allotted to his father because he was kept out of employment illegally till this Tribunal's orders dated 8-9-89 in T.A./868/86 which granted him continuity of service from 27-5-85. The applicant has contended that he was a regular railway employee w.e. from 27-5-85, in view of the following sentence of the Tribunal's orders.

" He should be allowed continuity of service for regularisation and retirement benefits from 27-5-85."

Applicant also says that the Law Officer's opinion referred to earlier vide Annexure A/5 shows that General Manager, (Western Railway) has decided the issue.

7. So far as the circular dated 11-4-83 is concerned, the applicant contends that the reliance by the respondents on this circular only shows that the approach is technical meant to deny the benefits to Applicant.

8. We have considered the matter carefully. It is not in dispute that Railway Board's instructions conveyed by the circular dated 11-4-83 hold the field. They

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distinguish between normal allotment and out of turn allotment. In the case of the latter, in the circumstances, of the case, three conditions must be fulfilled. Firstly, the relation of retired Railway employee must be in regular service. Secondly, he must be sharing as per the permission applied for and granted. Thirdly, this sharing must be for a period of 6 months before the date of retirement. The Law officer's opinion vide Annexure A/5 on which heavy reliance is placed by the Applicants is a conditional opinion and is an internal document and does not have the same authority as Railway Board's instructions. The applicant has also relied on the wording of the order of this Tribunal in T.A./868/88 stating that the applicant should be allowed the continuity of service for regularisation and retirement benefits from 27-5-85. Regularisation in this context, does not refer to the applicant being in regular service but only to dating back the seniority of the Applicant as a substitute Tea Boy from 27-5-85. In any case, Applicant has not disputed order at Ann.R/4 showing that the Applicant became a regular railway employee on 20-4-90. Applicant has also accepted that he has not got any order permitting sharing.

9. During the oral hearing, the applicant has invited our attention to the precedent of the

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judgment of C.A.T., Principal Bench, New Delhi in
Shri Guredeep singh v/s Union of India, reported
in 1991 (2) ATJ, 329.

10. We have carefully considered all the
available material and the oral arguments. Clearly, the
question involved is not allotment of Railway quarters
simpliciter but "out of turn" allotment thereof. It
is wellknown that there is a shortage of government
accommodation including the Railway accommodation and
the respondents have pertinently pointed out in their
reply that Railway Administration has to consider the
cases of other Railway employees who are entitled
in their turn to allotment of the quarters. Thus,
this Tribunal has to ^{ensure} ~~consider~~ also that any order
it passes does not cause injustice to a large majority
of Railway Employees who patiently wait in the queue.
The instructions of Railway Administration in this
regard, whose authority is not disputed by applicant also,
are, therefore, required to be interpreted strictly.

We find that since on the relevant date
viz. 30-6-89., Applicant No.1 was not a regular Railway
Employee. He is not entitled to out of turn allotment
even ignoring the formality of acceptance of the
application for sharing.

10. We have also gone through the judgment of
the Principal Bench of C.A.T. referred to by the

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Applicants. In our view that judgment is distinguishable because,

1. In that case, the applicant had applied for and was granted permission for sharing accommodation.
2. He was entitled to accommodation in the normal course.
3. Most importantly, there was also alleged discrimination under Article 14 of the Constitution, in its view in as much as in similar circumstances, a number of unscreened casual labourer had been given the benefits of regularisation of the quarters as per the details given therein. The fact of discrimination was not controverted by the Respondents.
4. With respect, we also note that the attention of ~~the~~ Principal Bench of the C.A.T. was not invited to the specific instructions of Railway Board contained ~~with~~ ⁱⁿ letter dated 11-4-83 and the distinction between allotment of quarters simpliciter and allotment of quarters on out of turn basis which enables the applicant to jump the queue.

Considering all the facts and circumstances of the case, application must be fail as the Applicant was not entitled to out of turn allotment according to Railway Board's instructions on the relevant date.

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11.

ORDER

The application is dismissed. No order
as to costs.

R.C. Bhatt
(R.C.Bhatt)

Judicial Member

M.R. Kolhatkar
(M.R.Kolhatkar)

Administrative Member.

*SS

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Sup. C. 52

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

Assisted to be true copy
Assistant Registrar (Jail.)

..... 199

Supreme Court of India

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PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 17686 OF 1993
(Under Article 136 of the Constitution of India, from the
Judgment and Order dated 14th May, 1993 of the Central
Administrative Tribunal, Ahmedabad Bench at Ahmedabad in
O.A. No. 201 of 1990)

WITH

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INTERLOCUTORY APPLICATION NO. 2

(Application for stay by notice of motion with a prayer
for an ex-parte order)

Harsh Kumar Chhaganlal,
S/o Sh. Chhaganlal Jivabhai Yadav,
R/o Railway Quarter No. 326/A,
Railway Quarters, Bhavnagar,
Para, Gujarat, through Supreme
Court Legal Act Committee

.. Petitioner

Versus

1. Union of India,
Owning & Representing Western Railway,
Through General Manager,
Western Railway, Churchgate,
Bombay - 400 020.

2. The Works Manager,
Western Railway Works Shop,
Bhavnagar, Para, Gujarat.

3. Chhaganlal Jivabhai Yadav,
R/o Railway Quarter No. 326/A,
Railway Quarters, Bhavnagar,
Para, Gujarat.

.. Respondents

1ST NOVEMBER, 1993

CORAM:

HON'BLE MR. JUSTICE S. RATNAVEL PANDIAN
HON'BLE MR. JUSTICE R.M. SAHAI

For the Petitioner:: M/s. S.K. Jain & Vijay Mansaria,
Advocates.

SD

THE PETITION FOR SPECIAL LEAVE TO APPEAL AND THE APPLICATION FOR STAY above-mentioned being called on for hearing before this Court on the 1st day of November, 1993 UPON hearing Counsel for the Petitioner herein THIS COURT while directing issue of notice to the Respondents herein to show cause why Special Leave be not granted to the Petitioner herein to appeal to this Court against the Judgment and Order of the High Court above-mentioned, DOETH ORDER that pending the hearing and final disposal by this Court of the application mentioned above for stay after notice, ⁽¹⁾ the operation of the Judgment and Order dated 14th May, 1993 of the Central Administrative Tribunal, Ahmedabad Bench at Ahmedabad in O.A. No.201 of 1990 be and is hereby stayed and (2) that status quo as obtaining between the parties herein on this the 1st day of November, 1993 regarding possession of Quarter No.326/A, Railway Quarters, Bhavnagar, Para, (Gujarat) shall be maintained;

AND THIS COURT DOETH FURTHER ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Manepalli Narayanarao Venkatachaliah, Chief Justice of India, at the Supreme Court, New Delhi, this the 1st day of November, 1993.

SD
(S.D. SHARDA)
DEPUTY REGISTRAR

re

182 pages
④ C.P.B. 2000
4/11/94
04/11/96

SUPREME COURT

~~ORIGINAL~~ CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) No. 17686 OF 1993

WITH

~~Max~~

~~max~~

INTERLOCUTORY APPLICATION NO. 1
(Application for ex-parte stay)

Haresh Kumar Chhaganlal

.. Petitioner

Versus

~~Respondent~~
~~Respondent~~

Union of India & Ors.

.. Respondents

ORDER DIRECTING ISSUE OF SHOW CAUSE NOTICE
AND GRANTING AD-INTERIM/EX-PARTE STAY
AND DIRECTING MAINTENANCE OF STATUS QUO.

DATED THIS THE 1ST DAY OF NOVEMBER, 1993.

~~Respondent~~

Date

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Engrossed by ~~cs~~ SHRI M/s. Jain Hansaria & Co.,

Examined by Advocate on Record for the Petitioner.

Compared with SHRI

No. of folios Advocate on Record for

SEALED IN MY PRESENCE

4/11/93

All communications should
be addressed to the Registrar,
Supreme Court, by designation.
NOT by name
Telegraphic address :-
"SUPREMECO"

No. 21
D.No. 1166/93/Sec. IX

SUPREME COURT INDIA

Dated New Delhi, the 26th February, 1994 19

FROM Assistant Registrar,
Supreme Court of India.

Central Administrative Tribunal

As per order dated

12.5.93

Date 02/12

- TO
1. The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench,
Ahmedabad.
 2. The General Manager,
Western Railway, Churchgate,
Bombay - 400 020.

CIVIL APPEAL NO. 1183 OF 1994
(From Central Administrative Tribunal Judgment and Order dated
14th May, 1993 in C.A. No. 201 of 1990)

Hareesh Kumar Chhaganlal
Versus

.. Appellant

Union of India & Ors.

.. Respondents

Sir,

In pursuance of Order XIII, Rule 6, S.C.R. 1966, I am
directed by their Lordship of the Supreme Court to transmit
herewith a certified copy of the Signed Order dated the 21st
February, 1994 in the appeal above-mentioned.

The certified copy of the decree made in the said appeal
and the Original Records, if any, will be sent later on.

Please acknowledge receipt.

Yours faithfully,

Encl. As above.

Submitted to the Tribunal

Assistant Registrar

Acc. of order dt 21/2/94 in
Sec. M. No. 1183/94 arising out of
the involvement of this Tribunal
(Cmle R. Bhatt & Mr. Kalbatkar)
allowing the appeal, is placed for perusal
Please

By Reg/Secy (C)

Harsh V.C.
Shown to the
21/11/94

Noted
2/3/94
C.R.

Special leave granted.

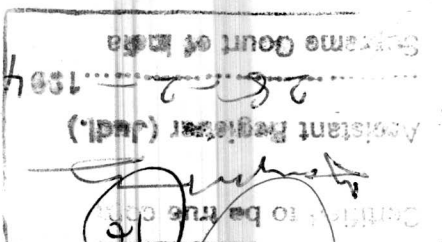
Heard counsel on both sides. We think that the Tribunal has taken an extremely narrow and technical view of the order by which it directed the appellant to be re-instated in service and further stated that he will be accorded continuance in service for the purpose of regularisation and retirement benefits from 27.5.1985. He was admittedly residing with his father before the latter retired from service. Therefore, if he was in continuous service, he was entitled under the rule to be permitted out of turn allotment. Even the office of the General Manager, Railways had recommended his case for grant of quarter. In the circumstances, we do not think that the narrow view taken by the Tribunal was in the facts and circumstances of the case justified. We set aside the same and direct that he be

O R D E R

Hareesh Kumar Chhaganlal
 Union of India & Ors.
 versus
 ...Appellant
 ...Respondents

CIVIL APPEAL NO. 1183 OF 1994
 (Arising out of S.L.P. (C) No. 17686 of 1993)

CIVIL APPELLATE JURISDICTION
 IN THE SUPREME COURT OF INDIA



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allotted the quarter in terms of the relevant rule. Appropriate formal orders may issue within four weeks and till then he will not be disturbed from the quarter. The appeal is disposed of accordingly with no order as to costs.

Sd/-

.....J
(A.M.Ahmadi)

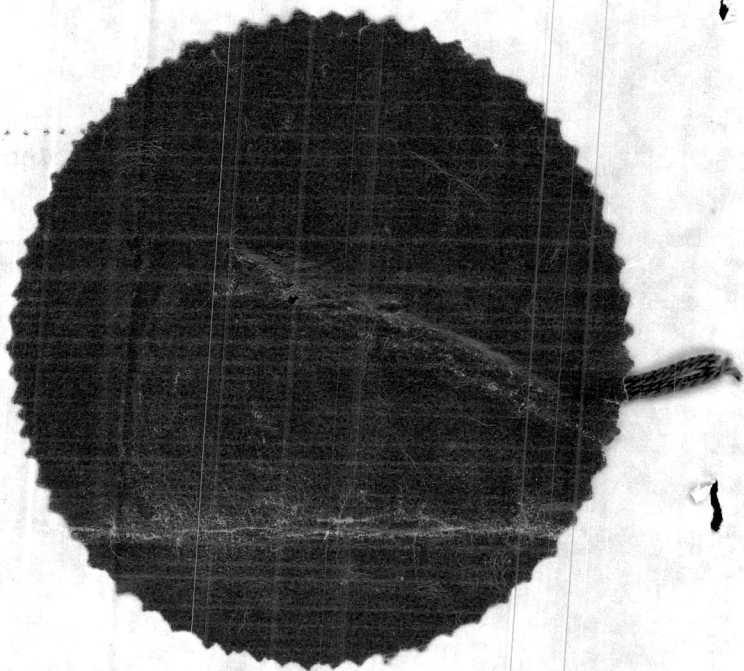
Sd/-

.....J
(R.M.Sahai)

Sd/-

.....J
(N.Venkatachala)

New Delhi,
February 21, 1994



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CE
28/2/84

All communications should
be addressed to the Registrar,
Supreme Court, by designation.
NOT by name
Telegraphic address :-
"SUPREMECO"

D.No. 1166/93/IX

SUPREME COURT INDIA

Dated New Delhi, the 4th March, 1994.

FROM

The Registrar (Judicial),
Supreme Court of India,
New Delhi.

Central Administrative Tribunal
Ahmedabad Bench
Forward No. 12876
Date 8/3

TO

1. The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench, Ahmedabad.
2. The General Manager,
Western Railway, Churchgate,
Bombay - 400 020.

CIVIL APPEAL NO. 1183 OF 1994.

Haresh Kumar Chhaganlal.

Appellant.

Versus

Union of India and Ors.


Respondents.

Sir,

In continuation of this Registry's letter of even number dated the 26th February, 1994, I am directed to transmit herewith for necessary action a certified copy of the Decree dated the 21st February, 1994 of the Supreme Court in the said appeal.

Please acknowledge receipt.

Yours faithfully,


for Registrar (Judicial).

Submitted to Hon'ble C.A.J.

*A.C. of order dated 21/2/94 in S.C.
CA No 1183/94 against the judgment of
this Tribunal dated 14/5/93 (R.C. 1304 &
C.R. 1304/93) is placed for perusal
please.*

17.07.94
9/13

Dr. Registrar (J)

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

Certified to be true copy

500160

Assistant Registrar (Judl.)

1993

Supreme Court of India

CIVIL APPEAL NO. 1183 OF 1994.

(Appeal by special leave granted by this Court by its Order dated the 21st February, 1994 in Petition for Special Leave to Appeal (Civil) No. 17686 of 1993 from the Judgment and Order dated the 14th May, 1993 of the Central Administrative Tribunal Ahmedabad Bench in O.A.No.201 of 1990). *REB. M.R.C.*

Harish Kumar Chhaganlal
S/o Sh. Chhaganlal Jivabhai Yadav
R/o Railway Quarter No.326/A
Railway Quarters
Bhavnagar
Para
Gujarat

Appellant.

through Supreme Court
Legal Act Committee.

Versus

1. Union of India
Owning & Representing Western Railway
Through General Manager
Western Railway
Churchgate
Bombay 400 020.
2. The Works Manager
Western Railway Works Shop
Bhavnagar
Para, Gujarat.
3. Chhaganlal Jivabhai Yadav
R/o Railway Quarter No.326/A
Railway Quarters
Bhavnagar, Para,
Exp Gujarat.

*Respondents**Proforma Respondents.*21st February, 1994.COMAM:

HON'BLE MR. JUSTICE A.M.AHMADI
HON'BLE MR. JUSTICE R.M.SAHAI
HON'BLE MR. JUSTICE N.VENKATACHALA

For the Appellants : M/s. Sunil K.Jain and Suresh C.Gupta,
Advocates.

For Respondent Nos.1
and 2.

Mr. J.Ramanurthy, Senior Advocate.
(Mr. Wasim A.Qadri, Advocate with him).

The Appeal above-mentioned being called on for
hearing before this Court on the 21st day of February, 1994,

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UPON perusing the record and hearing counsel for the appearing parties above-mentioned, THIS COURT DOTH in disposing of the appeal ORDER:

1. THAT the Judgment and Order dated 14th May, 1993 of the Central Administrative Tribunal, Ahmedabad Bench in O.A. No.201 of 1990 be and is hereby set aside and it is hereby directed that the appellant herein be allotted the quarter in terms of the relevant rule and appropriate formal orders ~~shall~~ be issued by respondent No.2 herein within four weeks from this the 21st day of February, 1994 and till then the appellant herein ~~shall~~ not be disturbed from the quarter;

2. THAT there shall be no order as to costs of this appeal in this Court;

AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Manepalli Narayanarao Venkatachaliah, Chief Justice of India at the Supreme Court, New Delhi dated this the 21st day of February, 1994.

(G.K.BATRA)
ADDITIONAL REGISTRAR.

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SUPREME COURT
CRIMINAL/CIVIL APPELLATE JURISDICTION

No. **57199**
CIVIL APPEAL NO.1183 OF 1994.

Harish Kumar Chhaganlal.

Appellant
~~Petitioner~~

Versus

Union of India and Ors.

Respondent 2.

**CENTRAL ADMINISTRATIVE TRIBUNAL,
AHMEDABAD BENCH.
O.A.No.201 of 1990.**

**DECREE DISPOSING OF THE APPEAL
WITH NO ORDER AS TO COSTS.**

Dated the 21st day of February, 1994.

M/s. Jain Hansaria and Co.,

Advocate on Record for the Appellant.

SHRI C.V.Subba Rao,

No. of folios

Advocate on Record for Respondent Nos.1 and 2.

SEALED IN MY PRESENCE

sg.33. 94.

4/3/94

CENTRAL ADMINISTRATIVE TRIBUNAL

Ahmedabad Bench

Application No. 201 of 19 80

Transfer Application No. _____ Old W. Pet. No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated : 7/6/93

Countersigned : 93

Section Officer/Court officer

Signature of the Dealing Assistant

15/8/98

INDEX SHEET

CAUSE TITLE

OF 19

NAMES OF THE PARTIES

Sheri. Halesh Kumar Chhaganlal

VERSUS

VERSUS

PART A B & C

[illegible]

R/3 is important
Applicant no 2 father return on 31-12-89

A12 of 6-12-89 can be said the date when he is
regular. All judgment cannot be
construed to mean the applicant is regular
from 1985.

1991 ~~Vol. II~~ Vol. II A T J. P 392 ^{Gooding}
vs
V. 02.

Responded

In the judgment cited by applicant
R/1 & R/3 fully not considered. Moreover
there was questioning of discrimination
with other canal laborers ^{who} ~~where~~
~~given~~ ~~a regular~~ where
quarters were regular.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Submitted :

C.A.T./JUDICIAL SECTION.

Original Petition No.: 201 of 90

Miscellaneous Petition No. of

Shri Harish Kumar Chavanlal & Co Petitioner(s).
Versus.

Union of India & Co Respondent(s).

This application has been submitted to the Tribunal by
Shri BB Gogia

UNDER Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days. Draft letter is placed below for signature.

pages 9, 10, 14, are not legible

*A, not certified as true copy. - All annexures
are certified as true copies.*

Asstt. :

S.O. (J) :

Dy. R. (J) : *Ch*

may in form accordingly
[Signature]
24/4/90

Adv. Council to undertake supply

legible copy & certify it accordingly

for my place on (Vrg. & not filed)

GACB

24/4

As

So

Dr. (J)

*We may put up for admission at the
earliest as per direction as urgent -
note. [Signature] 24/4/90*

CENTRAL ADMINISTRATIVE TRIBUNALAHMEDABAD BENCH

APPLICANT (S)

RESPONDENT(S)

PARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF
EXAMINATION.

1. Is the application competent ?
2. (A) Is the application in the prescribed form?
(B) Is the application in paper book form ?
(C) Have prescribed number complete sets of the application been filed ?
3. Is the application in time ?
If not, by how many days is it beyond time ?
Has sufficient cause for not making the application in time stated ?
4. Has the document of authorisation/ Vakalat Nama been filed.?
5. Is the application accompanied by B.D./I.P.O. for Rs.50/-? Number of B.D./I.P.O. to be recorded.
6. Has the copy/copies of the order(s) against which the application is made, been filed ?
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ?
(b) Have the documents referred to in (a) above duly attested and numbered accordingly ?
(c) Are the documents referred to in(a) above neatly typed in double space ?
8. Has the index of documents has been filed and has the paging been done properly ?

227840
186.

Yes (Annex P 15)

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?
11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with annexures filed.
 - (a) Identical with the original.
 - (b) Defective.
 - (c) Wanting in Annexures
No. _____ Page Nos. _____ ?
 - (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the Respondents been filed ?
14. Are the given addressed, the registered addressed ?
15. Do the names of the parties stated in the copies, tally with those indicated in the application ?
16. Are the transactions certified to be true or supported by an affidavit affirming that they are true ?
17. Are the facts for the cases mentioned under item No.6 of the application.
 - (a) Concise ?
 - (b) Under Distinct heads?
 - (c) Numbered consecutively?
 - (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons ?

y

no

y

y

no

y

y

y

y

y

checked.
yft
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Date 18.4.90

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The Registrar,
Central Administrative Tribunal,
AHMEDABAD

Dear Sir,

O.A. 201/90

Sub: Original Application by Shri Hareshkumar
Chhaganlal and (2) Shri Chhaganlal Jiva-
bhai Yadav against Union of India and one
another

The above petitioners have filed the
original application on date. They apprehend
that they may be evicted forcefully from their
Railway Quarter No.326/A at Bhavnagar. As such
the applicants has prayed for interim relief
also in the above O.A.

Since the applicants require urgent
relief, it is requested that the matter may
please be placed on board immediately for the
hearing. I undertake to supply requisite
copies within a week.

Thanking you,

Yours faithfully,

(B. B. GOGIA)

Hareshkumar Yadav

C. S. Yadav

Date 18.4.'90

The Registrar,
Central Administrative Tribunal
AHMEDABAD

Sir,

01/201/90

Sub: Original Application by Shri Hareshkumar
Chhaganlal and (2) Shri Chhaganlal Jiva-
bhai Yadav against Union of India and one
another


The above original application is being
filed by the above applicants jointly. Applicant
No.1 and 2 are son and father. Common facts and
law are involved in the case.

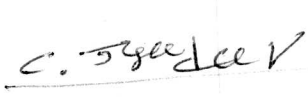
In view of the above it is requested that
they may kindly be permitted to file the above
original petition jointly.

Thanking you,

Yours faithfully,


(B. B. GOGIA)





BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD

ORIGINAL APPLICATION NO: 201 /90

1. Shri Hareshkumar Chhaganlal,
2. Shri Chhaganlal Jivabhai Yadav
Address: Railway Quarter No.326/A,
BHAVNAGAR PARA

:: APPLICANTS

VERSUS

Union of India & one another

:: RESPONDENTS

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Sr. No.	Description of documents relied upon	Page No.
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02. A/1	Judgement in MA No.557/89 in TA No.688/86 delivered by the honourable Tribunal Ahmedabad	09 - 11
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08 A/7	WM BVP's Office Order No.76/90 dt.12.4.90	18

Rajkot/Ahmedabad

Date: 14/4/90

1 Hareshkumar Chhaganlal

For use in Tribunals Office

2 C. Prasad

Date of filing
or
Date of receipt by post
Registration No.

Signature
for Registrar

(2)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 201 /90

Shri Hareshkumar Chhaganlal,
Hindu, Adult, Aged about 29 Years,
Occupation: Service,
Tea Boy, Railway Workshop Canteen,
BHAVNAGAR PARA

2. Shri Chhaganlal Jivabhai Yadav,
Hindu, Adult, Aged about 58 Years
Occupation: Retd. Rly. Employee,

Address of both:

Railway Quarter No.326/A,
Railway Quarters,
BHAVNAGAR PARA

:: APPLICANTS

Versus

1) Union of India,
Owning & Representing
Western Railway,
Through:
General Manager,
Western Railway,
Churchgate,
BOMBAY - 400 020

2) Works Manager,
Western Railway Works Shop,
BHAVNAGAR PARA

:: RESPONDENTS

DETAILS OF APPLICATION

1. Particulars of the order against which the application is made.

Prayer for directions to the Respondents to permit the applicants to continue to occupy the Railway Quarter in their Occupation, viz. Qr.No.326/A, and to allot the same in the name of Applicant No.1 in terms of General Manager, Western Railway, Bombay's letter dated 23.3.1990 at Annexure A/5.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal

is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case

The applicants begs to submit as under:-

i) The applicant No.1 is the son of Applicant No.2. Applicant No.2 was working as Chargeman in the Workshop at Bhavnagar and he is retired from service from the afternoon of 31.12.1990. The applicants submit that Applicant No.1 has been in occupation of Railway Quarter No.326/A in the Railway Colony at Bhavnagar, which is meant for class IV employees, being a type I quarter. He is staying the same quarter for the last 21 years or so. The applicant No.1 was appointed as a Tea Boy in the Canteen of the Railway Workshop, where the Applicant No.2 also worked. However, the services of Applicant No.1 was terminated with effect from 1.2.1982. Against the same he filed Regular Civil Suit No.826/85 in the Court of Civil Judge, Sr.Division, Bhavnagar. This was transferred to this honourable Tribunal as TA No.868/86. The said matter was disposed of by order dated 15.9.1989 by the honourable Tribunal, xerox copy of the same is annexed as Annexure A/1.

A/1

.....3.

ii) Consequent upon the judgement dated 15.9.89 delivered by the honourable Tribunal, the competent authority, i.e. General Manager, Western Railway Bombay, conveyed its approval for taking Applicant No.1 on duty and accordingly the Respondent No.2 released the reinstatement order in favour of applicant No.1 in terms of his No.WM/E.649/2/1/1 dated ~~XXXX~~ 6.12.1989. Xerox copy of letter dated 6.12.1989 is annexed herewith as Annexure A/2. By this order he has been granted continuity of service for the purpose of regularisation etc. from 27.5.85 with the approval of Works Manager.

A/2

iii) The applicant accordingly resumed his duties immediately. Applicant No.1 submitted an application dated 11.12.1989 to the Respondent No.2 with counter-signature of the Applicant No.2 for allotment of the said quarter No.326/A in his favour, out of turn, and permit him to continue in the quarter along with his father, since his father, i.e. Applicant No.2 was due to retire from 31.12.1989 AN and that they have been living together for several years sharing the same accommodation. Copy of the said application is annexed herewith as Annexure A/3. Meanwhile the Applicants were permitted to continue in the said quarter upto 30.4.1990 on payment of normal rent, copy of such order is annexed herewith as Annexure A/4. The application submitted by Applicant No.1 was referred to the General Manager, Western Railway, Bombay for their opinion and directions. The General Manager, Western Railway, Bombay in terms of their letter No.E(WEL)254/6/2/2 dated 23.3.1990

A/3

A/4

addressed to Respondent No.2 informing him the opinion of the Law Officer. As mentioned therein that since he has been considered for regular appointment on and from 27.5.1985 i.e. before retirement of his father, the request of the petitioner for allotment of quarter appears to be justified, if other conditions are fulfilled.

Copy of letter dated 23.3.1990 from the General Manager, Western Railway, Bombay is annexed herewith as Annexure A/5. The Applicant also produces herewith copy of circular issued by the Railways on the subject, wherein the quarters occupied by father has to be allotted to his son serving in the railways if the quarter is of the type of which the applicant is entitled to. Copy of the same order is annexed herewith as

A/5

A/6
(Cumulative)

Annexure A/6 cumulatively.

iv) The applicants submit that the applicant No.1 has been granted all the benefits of continuity of service by the respondents in terms of letter No. WM/E.649/2/1 dated 12.4.1990, a copy of which is annexed herewith as Annexure A/7.

A/7

v) The applicants submit that in spite of the fact that General Manager's decision has already been received and the applicant's case is fully covered by the rules for allotment of quarters, there has been inordinate delay in implementing the same and that he is permitted to continue in the said quarter only upto 30.4.1990. The applicants are therefore under the apprehension that they would be treated as in un-authorised occupation of quarter

and after 30.4.1990 action would be taken by the Respondents to evict them from the quarter by force or heavy damage rents would be charged for their occupation of the quarter beyond 30.4.1990 by way of penal rent. It is due to this inordinate delay that the applicant is constrained to approach this honourable Tribunal. The applicant is also enquiring from the respondents No.2's office every now and then after General Manager's letter dated 23.3.1990 was received by them, but since he is not getting any favourable or proper reply, he has been ~~constrained~~ under strains and apprehensions.

vi) The applicants submit that the matter is already decided by the highest authority of the Zonal Railway, i.e. the General Manager of Western Railway getting the legal opinion and advising that the request for allotment of quarter is justified and further that the case of the applicant is fully covered by the policy of the Railway Board as reproduced in General Manager's circular No.BP 58/0 dated 8.4.1971, which is further reproduced in the circular dated 26th April 1971, which are cumulatively produced at Annexure A/6.

vii) The applicant No.1 is a class IV employee and he is eligible for railway accommodation in question since it is a type I quarter meant for class IV employees. Since the applicants are fully covered by the scheme there is no reason for the local railway administration with Respondent No.2 to delay releasing the allotment of quarter in favour of the Applicant No.1.

5. Grounds for relief with legal provisions

- i). There has been inaction on the part of Respondent No.2 in implementing the decision given by the General Manager, Western Railway in respect of allotment of quarters to the Applicant No.1.
- ii) Non-extension of the benefits of the policy of the Respondents as produced at Annexure A/6 is arbitrary.

6. Details of the remedies exhausted

The applicant declare that they have no remedies available according to the statutory rules of the Respondents.

7. Matters not previously filed or pending with any other court

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought

- A) The Respondents may please be directed to permit the Applicant No.1 to continue occupation of the quarter occupied by his father at present in quarter NO.326/A and release the allotment order of the quarter

(8)

in favour of the Applicant No.1 from the date of decision of General Manager, Western Railway, Bombay as in Annexure A/5 or from 1.5.1990 as the case may be.

- B) Any other better relief/reliefs as deemed just and proper by this honourable Tribunal looking to the circumstances of the case may please be granted to the Applicants.
- C) Cost of the application may please be granted to the Applicants from the Respondents.

9. Interim order, if any prayed for

The respondents may please be restrained from evicting the Applicants from Quarter No.326/A till final disposal of the matter.

10. In the event of application being sent by registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self addressed Post Card or Inland letter, at which intimation regarding the date of hearing could be sent to him.

11. Particulars of Postal Orders in respect of the Application Fee

1. Number of Indian Postal Order(s): DP 227848
2. Name of the Issuing Post Office : Rajkot
3. Date of issue of Postal Order(s): 16/4/90
4. Post office at which payable : A'bad

12. List of enclosures

- 1) Postal Order as per Para 11.
- 2) Vakalatnama
- 3) Documents relied upon from Annexure A/1 to A/7

VERIFICATION

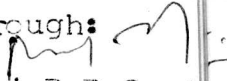
We, Hareeshkumar Chhaganlal, son of Shri Chhaganlal Jivabhai Yadav, aged about 29 years working as Tea Boy in the Western Railway Workshop Canteen at Bhavnagar, resident of Bhavnagar and Chhaganlal Jivabhai Yadav, son of Shri Jivabhai aged about 58 years ~~working as~~ working as : Retired Railway Employee, resident of Bhavnagar do hereby verify that the contents of paras 1 to 3 and 6 to 12 are true to my personal knowledge and paras 4 to 5 believed to be true on legal advice and that ~~there~~ we have not suppressed any material fact.

Rajkot/Ahmedabad

Date: 19/4/90

Hareeshkumar Yadav
(APPLICANT 1)

e. S. Gogoi
(APPLICANT 2)

Through: 
Shri B.B. Gogia,
Advocate,
Rajkot

Filed by Mr... B.B. Gogia
Learned Advocate for Petitioners
with second set & 2 ~~spares~~
copies copy served/not served to
other side

19/4/90 Dy. Registrar C.A.T. 19/4
A'bad Bench

M.A./557/89

in

TA/868/86

Central Administrative Tribunal
Ahmedabad Bench

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman
 Hon'ble Mr. P.M. Joshi : Judicial Member
ORAL ORDER

8/9/1989 Per: Hon'ble Mr. P.H. Trivedi : Vice Chairman

Heard Mr. B.B. Gogia and Mr. D.K. Vyas the learned advocates for the petitioner and the respondents respectively. Learned advocate for the respondents filed documents by MA/557/89 to which the petitioner has no objection. They be taken on record. After hearing the learned advocate it was made out by the petitioner that his absence was involuntary, because on 1.2.1982 he was arrested and on 12.8.1982 only he was acquitted and accordingly his absence is only for that reason. He was terminated by the order dated 4.3.1982 at Annexure-A-1 and this was due to circumstances beyond his control. The respondents themselves by order dated 27.5.1985 have sanctioned his reengagement. This order is reproduced below:

Western Railway

No.W. 254 Vol.III

SS(W)'s office/BVP
Date: 4.3.1982OFFICE ORDER

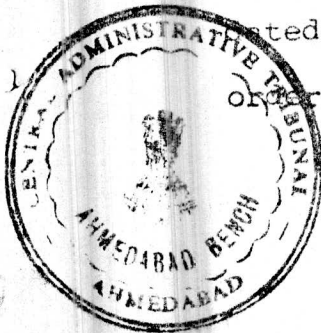
Sub: Termination of service-Canteen Staff-
BVP workshop

Ref: WH BVP's letter No.WH/E.254/2/1 of 3.3.62.

In terms of WH BVP's letter cited above services of Shri Harishkumar C. Tea Boy, Railway Canteen, BVP Workshop is terminated with effect from 1.2.1982.

(X) BVP

Thereafter on the same date another order was passed which is reproduced, for which it is stated by the respondents that the petitioners did not reengage, so he should not be engaged on that date. The Muster Roll is also enclosed along with this, so that the mark to the date of 27/28/29/30/31. The petitioner in his review petition in para 12-1.



has impugned the order at mark-4/1 and in sub-para (B) thereof has asked for relief of continuity of service from the date of the impugned order of termination and reengagement and other consequential benefits. Against this, learned advocate for the respondents states that the petitioner was only a substitute and his termination due to his absence was legal and on his acquittal his reengagement was sanctioned. No violation of Article 311 is involved. The petitioner has filed this case only on 31.5.1985, when the sanction for reengagement is on 1.3.1982. The petitioner therefore has acquitted in his termination of service. There is no question of discrimination because the petitioner had no right to continue and his juniors having been available were allowed to be continued. The petitioner however states that he was terminated because of his absence for reasons beyond his control and he should have been immediately reengaged after the letter of sanction dated 4.3.1982 was issued. The respondent states that it was for the petitioner to report on duty and that he did not do so and in the circumstances if his juniors have continued and get the benefit of service for the period for which the petitioner did not present himself for duty, the petitioner has to take the consequences. For this reason another person was engaged as a substitute from 16.2.1982.

After hearing the learned advocates, we are satisfied that the petitioner was appointed as a substitute and can claim reengagement from such date on which he reports for duty. The petitioner has no claim for wages from 27.5.85 from which date his reengagement has been sanctioned because he has no work in the post to claim such wages. The petitioner has to be put strict proof as he offered himself for duty and he was denied employment. On the other hand as the respondents have sanctioned his reengagement from that date it would be unjust to deny him the benefits of continuity of service for the purpose of regularisation or retirement benefits.

..3..

because it is for the respondents to strictly prove attempts made by them to engage on duty after giving the order of sanction. This also they have failed to do except by merely present the muster roll in his absence has been shown. This by itself does not preclude the possibility for the post may not have even known that he should have presented himself to the relevant authority maintaining the muster roll for employment. The petitioner is therefore to report for duty immediately to the respondent authorities and he should be taken on duty from the date on which he is allowed to join. He should also be allowed continuity of service for regularisation and retirement benefits from 27.5.1985.



With the aforesaid direction, the petition is found to have merit to the extent stated above and the case is disposed of accordingly. No order as to costs.

Prepared by RCC
15.9.89

Compared by P.P.T.
15.09.89

Sd/-

(P.H. TRIVEDI)
VICE CHAIRMAN

Sd/-

(P.M. JOSHI)
JUDICIAL MEMBER

TRUE COPY

K.B. Sane
15.09.89

K. B. SANE

Section Officer

Central Administrative Tribunal,
Ahmedabad Bench.

True copy
(Signature)
15.09.89

Annex
A-2

5221a1 13/12/89
21/12/89

Western Railway

No. WM/E.649/2/1/1

WM's office, BVP.
Dt/- 6.12.89

(22)

-: Office order No. 273 /1989 :-

Sub:- Civil suit No. 826/85 filed by Shri Hareshkr. r
Chhaganlal Ex-Subst. Tea Boy - W/shop Canteen BVP
in the Court of Civil Judge (SD) Bhavnagar
subsequently transferred to CAT/ADI as TA/PEO/86.

Ref:- GM(E)CCG's No. E(Wel) 254/E/2/2 of 4.12.89.

Consequent upon judgement dtd. 15.9.89 delivered by
CAT/ADI and competent authority's approval for taking the employee
on duty as conveyed vide GM/E/CCG's letter No. E(Wel) 254/E/2/2
of 4.12.89, Shri Hareshkr. Chhaganlal, Subst. Tea Boy of W/shop BVP
Canteen is now taken back on duty and posted in the Workshop Canteen
BVP with immediate effect against the existing vacancy.

The employee has no claim for back wages from 27.5.85 to
the date of re-instatement, as it is considered no work no pay
in the post for claiming such wages. However, he has been granted
continuity of service for the purpose of regularisation or retirement
benefits from 27.5.85.

This has the approval of WL.

Hindi version will follow.

WM/BVP.

C/- SS(W)BVP for inf. and n/action.

C/- A.O(W)BVP, O.O. file, Party concerned.

C/- Hindi Cell.

C/- Divl. Secy. WREU/WRMS, BVP.

C/- GM/E/CCG with ref. to his above quoted letter for inf. pl.

True Copy

@Vesem

Advocate

True Copy
@Vesem
AX

Annex
A-3

Date:- 11.12.89.

(3)

(13)

To,
The SS(W) Evt. 26/11/89 W.M BVP

R/Sir,

Subj:- Allotment of Type I Rly. Q.No. 326 A.
Ref:- Your office order No. E.254 Vol. IV dtd. 8.12.89.

With due respect & humble submission I beg to state that as per your office order as referred to above I have been reinstated in Rly. service and my services have been treated as continuous with effect from 27.5.85 granting me all types of benefits except wages of the intervening period. In this connection I have to submit that I have been living with my father sharing accommodation in his Rly. quarter No. 326 A Type I for several years and my father is due for his retirement from Rly. service from 1.1.1990. In view of the above facts and circumstances I earnestly request your honour to arrange to allot me the same Rly. quarter in which I have been sharing accommodation with my father as per extant rules & oblige.

Thanking you.

Countersigned:-

C. S. Yadav ✓
(CHAMAN LAL S. YADAV)
Ch/Man 'B', w/shop
IWP.

Yours faithfully,

Harender C. Zafar
(HARENDER CHANAN LAL)
Tea-boy, Rly. w/shop
Canteen, W.P.

C/- W.M-BVP in advance with a request to consider my case for allotment of Rly. quarter as requested above.

11/12/89

श्रीत भवोदय,
ए. ए. भावनगर पत्ता.
SHOP. SUPERINTENDER
W. RLY. BHAVNAGAR PATT

True Copy

Adv. Secy

Adv. Secy

True copy
Adv. Secy
Ames

74

CONFIDENTIAL

9 July 1970.

2. 2/3 51.11.

RECEIVED

On the 11th of 17. 18. 19 the 11th 18. 19.

Re: Your letter to. 01/05/9 Vol. 31 and
20-12-127.

Mr. H. has recorded his sanction for retention of Mr. [redacted] on payment of annual rent in favour of the following employees:-

No.	Name	Rank	Unit	St. of	My. No.	Retention
					if recent, No.	given
1.	Mr. David A. Jones	3rd	10-11-39	2/54-A	1-12-39	31-2-39
				Typ. I.		
2.	Mr. James H. Hays	1st	11-12-39	2/325-A	1-1-30	30-4-39
				Typ. I.		

Arthur
G. J. M.

10-10-1964

1. [illegible] [illegible] [illegible] [illegible]
2. [illegible] [illegible] [illegible] [illegible]

12 $\frac{1}{90}$

True Copy
Advocate

True copy
B. H. Brown

522021
WESTERN RAILWAY

Headquarter Office,
Churchgate, Bombay-20.

DT:-23/3/1990.

NO.E(WEL)254/6/2/2.

MM-BVP.

Subs Civil suit No.826/85 filed by Shri
Harishkumar C. Ex. Subst. Tea boy
workshop Cartoon - BVP in the Court
of Civil Judge - (SD) Bhavnagar subse-
quently transferred to CAT/ADI as T.A.
868/86.

Ref: Your letter No.WH/E 649/2/1 dt.19/2/90.

With reference to your letter quoted above the case
was put up to the Law Officer, CCG whose orders are reproduced
below :-

Law Officer has examined the zerox copy of the
Judgement dt.8/9/89 received under your letter No.WH/649/2/1
dated 09/10/1989 and stated that judgement awarded by CAT-ADI,
particularly clarified the position in last para.

Accordingly the parawise remarks offered by L.O.CCG are
as under :-

1) & 2) It is advised that Shri Harishkumar C. being Senior
to Kirit B. is a admitted fact. Shri Harishkumar C. is entitled
for all the service benefits except back wages on and from
27/5/85. Further it is also stated that he should be given
proforma fixation to have the benefits of increments.

3) As regard the allotment of Quarter, it is further
advised that when the CAT has considered his regular appointment
on and from 27/5/85 i.e. before retirement of his father, the
request of the petitioner for allotment of quarter appears to
be justified if other conditions of sharing etc. fulfilled.

Further development in the matter may please be
advised.

for General Manager(E).

/AJR/
22/3.

True Copy

VBV

Advocate

True copy
B.V. Vaidya
Advocate

Annex A 6

(16)

Western Railway

Circular No. 30
No. EP 58/0 Vol. III

Divisional Office,
Rajkot.
Dt. 26 - 4 - 71.

To
All Supervisory staff.
All SMS - RJT Dn.
All Divl. & Asstt. Officers.

Reg.- Allotment of Railway quarter to N.G. staf -
Regularisation of allotment of Rly. qrs.
in the name of a Railway servant who
retires from or dies while in service.

A copy of Rly. Board's letter No. E(G) 71 QR1-4 dt. 27-2-71 along with a copy of GM (E) CCG's letter No. EP 58/0 dt. 8-4-71 is reproduced below for information and guidance. HQ office letter dt. 24.8.66 referred to therein was circulated under this office no. even of 17.9.66.

giving 25/4
for DS (E) RJT.

Copy to:-

The CC EM CC EPB(4)
The HCs - ED EC ET EE (3).

Copy of letter No. EP 58/0 dated 8-4-71 from GM (E) CCG to DS RJT and others.

Sub:- As above.

In continuation of this office letter No. E 58/0 dated 24-3-66, a copy of Board's letter No. E(G)71QR1-4 dated 27-2-71 is sent herewith for information and guidance. Board's letter No. PC-66/HRA-1/21 dated 26th July 1967 was circulated to the subordinate offices under this office letter No. E 77/0 dated 12-9-67.

Copy of Railway Board's letter No. E(G)71QR1-4 dated 27-2-1971 to the General Managers, All Indian Railways.

Sub:- Regularisation of allotment of Railway quarters in the name of a railway servant who retires from or dies while in service.

Reference Board's letter No. E(G)66QR1-11 dated the 26 25th June 1966.

ue Copy

B. Vasani

Advocate

*Tunc con
B. Vasani
Ambedkar*

....2/PTO

Annex A-7
WESTERN RAILWAY

NO: WM/E/649/2/1

OFFICE ORDER NO: *76*/1990

WM's Office BVP.
Dtd: -12-04-1990

Sub: Proforma Fixation of Pay- Case of Shri Hareshkumar Chhaganlal Yashav
Substitute Tea Boy of BVP Workshop *Canteen*.
Ref- (1) GM(E)-CCG's letter Nos: E (WEL) 254/6/2/2 dtd: -4-12-89 and 23-3-90
addressed to WM-BVP only.
(2) This office O.O. NO: Even dtd: -6-12-1989.

In terms of GM(E)-CCG's letter No: E (WEL) 254/6/2/2 of 23-3-1990
Shri Hareshkumar Chhaganlal Yashav, Substitute Tea Boy, Scale: Rs. 196-
232 (R)/Rs. 750-940 (RP) of BVP Workshop, who is taken on duty from:-
6-12-1989, is granted Proforma Fixation with effect from: -27-5-1989 *(1985)*
being Senior to Shri Kirit B., Substitute Tea Boy, Scale: Rs. 196-232 (R)
Rs. 750-940 (RP) of BVP Workshop Canteen.

This has approval of WM-BVP.

Hindi Version will follow.

AS
Works Manager,
Bhavanagar Para

C/- SS(W)-BVP for inf. & n/action with ref. to his letter No: E/254 of
9-12-1989.
C/- AAC(W&S)-BVP, C.O. File, Party concerned.
C/- Divl. Secretary: WRMS/WRPU-BVP.
C/- Hindi Cell.

True Copy

Advocate
(Advocate)

D/C 19/18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A. No.201 OF 1990

Applicant (1) Hareshkumar Chhaganlal
(2) Chhaganlal Jivabhai Yadav

Respondents: Union of India and another..

The Railway Administration states as follows in reply to the applicants' application:-

1. The application is not according to law, based on incorrect statements ~~xx~~ of facts, misconceived and otherwise ~~ix~~ untenable.

2. The Railway Administration does not admit the truth or correctness of various statements, averments, allegations and contentions set out in the application unless the truth or correctness of any one of them is expressly and specifically admitted ~~x~~ herein.

3. The contents of para 1 and 2 being formal, do not require any reply.

✓ 4. Regarding the contents of para,3, it is stated that the applicants have wrongly placed reliance on the General Manager's letter dated 23.3.1990 referred to

therein .It is not an order simply to allot the quarter no.326/A to the applicant no.1 as prayed for. What the General Manager in his letter A/5 has recommended is " the request of the petitioner for allotment of quarter appears to be justified if other ~~xxxxxx~~ conditions of sharing etc. fulfilled." As will be shown hereinbelow, the necessary condition for allotment of quarter 326/A which is Type I Quarter are not fulfilled in the case of the petitioner- applicant and hence he is not entitled to the allotment of that quarter.It is submitted that the notions or guidelines for allotment of quarters are contained in administrative instructions set out in General Manager's letter bearing no.EP/53/0 dated 14.4.1983 (11-4-1983) to all concerned, a true copy of which is annexed ~~and~~ herewith and marked R/1. Ann. R/1.

5. Referring to the contents of paragraph 4 (i) to (vii),it is submitted that it is true that the applicant no.1 is the son of applicent No.2,who was working as chargeman "B" (Mahine) in the scale of Rs. 1400 to 2300 (RP) in Bhavnagar Para Workshop and retired with effect from 31.12.1989. At the relevant time he did occupy quarter no.326/A which is type I quarter in Bhavnagar Railway area,which as per Rules could be allotted to Group "D" category staff. He was however, allotted this particular quarter in group "C" category a long time back and

21 (19)

he had not applied for change of the railway quarter from Type I to Type II. The applicant no.1 was serving as substitute ~~Tea~~ Tea Boy in the workshop Canteen from 13.1.1982 to 31.1.1982. and his services were terminated from 1.2.1982. Subsequently still however, as per this Hon'ble Tribunal's decision in TA 866/86 and as per the order of the General Manager (E) Western Railway, Churchgate Bombay's letter no.E (WEL) 254/6/2/2/~~x~~ 1989 dated 4.12.1989 the applicant no.1 was taken on duty from 6.12.1989. He submitted an application dated 11.12.1989 to the Shops Superintendent (Workshop) Western Railway, Bhavnagar stating that he had been living with his father since several years and therefore he should be allotted the same railway quarter 326/A as he was sharing the same with his father as per the extant Rules. It is submitted that this is not true. First of all no permission was granted by the Railway administration after he was appointed in the Railway. He did not apply earlier for sharing accommodation with his father in the past, when he was earlier working as a substitute canteen boy from 13.1.1982 and therefore, he had not applied for sharing accommodation and no such permission was granted to him in the past and, therefore, the said contention is without any force. In this connection a reply was given by the Works Manager, Western Railway, Bhavnagar as per letter No.WM/E/58/2/4 Vol.II dated 30th December 1989 to applicant no.2, which was a

reply to his application for retention of railway quarter No.326/A type I for four months dated 12.12.1989. He was also informed that he was permitted to retain the said quarter only upto 30th April,1990 after deducting rent of the railway quarter as per extant rules. The applicant no.2 also did not vacate the railway quarter on 1.5.1990 as required and therefore he has been advised ~~xx~~ by the Works Manager for vacating the railway quarter. Annexed hereto and marked Annexure R-2 is a true copy of the said letter. Ann. R-2

6. With further reference to the contents of para 4(i) to (vii) it is stated that as per the General Manager (E)'s Letter ~~xx~~ at Ann.R-1 as amended by his another letter bearing no.EP/58/0 dated 7.6.1984 a copy of which is annexed herewith and marked R-3 .The concession of out of turn allotment as admissible can be extended to son/daughter/wife/husband if the said relation is in regular service and had been sharing the accommodation for a period of 6 months before the date of retirement or death of a railway servant. In the case of the applicant no.1 it will be evident that at the relevant and material time he was not regularised in service. He was actually screened and ~~px~~ placed on the panel provisionally for regular

Ann.R-3

Ann.R-4.

absorption only by an order by the Works Manager, Western Railway, Bhavnagar as per the office order bearing No.WM/E/891/6(i) dated 20.4.1990. Annexed herewith and marked annexure R-4 is a true copy of the said office order. It will be evident therefore that the applicant no.1 has not fulfilled the relevant conditions as laid down in the General Manager (E)'s letter referred to above and, therefore, he is not entitled and not eligible for allotment of railway ~~q~~ quarter out of turn and hence the request of the applicant for allotment of Railway quarter No.326/A on out of turn basis is not tenable. In view of this, there is absolutely no substance or justification in the contentions and allegations of the application set out in the above sub-
paras (1) to (vii). The therefore is misconceived and deserves to be dismissed on these grounds.

7. In view of what is stated above there is absolutely no substance in the allegations and contentions set out in para 5.

8. In view of what is stated above, the applicant is not entitled to relief either permanent or interim as set out in paragraph

9. The interim relief granted by this Hon'ble ~~Court~~ Tribunal on the facts as stated above requires to be vacated because it creates a grave administrative difficulty and inconvenience

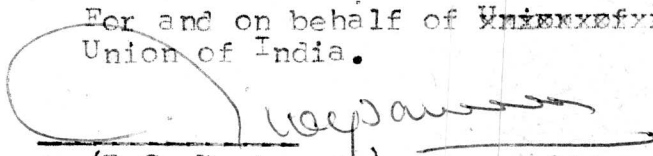
in the way of the railway administration .As stated hereinabove the applicant is absolutely not entitled to allotment and occupation of quarter no.326/A. The Railway Administration has to consider the cases of other railway employees, who are entitled in their turn, to allotment of the quarter and because of the interim relief obtained by the applicant, it is not possible for the railway administration to make allotment of the quarter according to ~~Rlx~~ Rules. In the interest of justice and convenience, the interim relief requires to be vacated immediately.

9. In view of what is stated above, the railway administration prays that there is absolutely no substance in the contentions and allegations set out in the application and the same be rejected with costs.

Date : 12.6.90

R. M. V. / Advocate.

For and on behalf of ~~Union of India~~
Union of India.

X

(P.G. Deshpande)
Works Manager,
Western Railway,
Bhavnagar para.

126

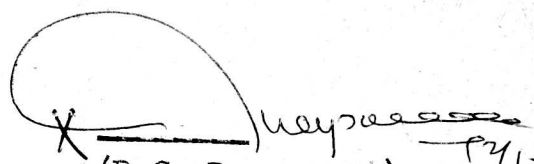
I, P.G. Deshpande, aged 55 years, Works Manager, Western Rly. Bhavnagar para.


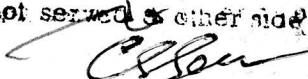
do state on verification that I am conversant with the facts and circumstances of this case and the record pertaining thereto and as such I say that

(21)
37

-7-

what is stated above in paragraphs 1 to
9 is true partly to my knowledge, partly to
my information and partly to my belief and I
believe the same to be true.

X 
(P.G. Deshpande)
Works Manager,
Western Railway,
Bhavnagar para.

Reply/Response/written submission
filed by Mr. 
learned advocate for petitioner/
Respondent with second set
Copy, served/not served & other side

11/13/90 Dy. Registrar C.A.T. J.
Atmad BERA

Western Railway

No. WP.58/0

Headquarter Office,
Churchgate, Bombay
Dt/- 11 April 1983.

All concerned.

Copy to : General Secretary/WREU Grant road,
WRMS Bombay Central.

Sub:- Allotment of Rly. quarters to non-gazetted staff -
~~Eligibility~~ Eligibility for sharing of accommodation
by Substitutes.

The Rly. Board, in their letter No. E/G/66 CR1-11 dtd. 25.6.66, had provided that when a Rly. servant who has been allotted Rly. accommodation retires from service or dies in service, his son, daughter, or wife may be allotted Railway accommodation on out of turn basis provided the said relation was a Railway servant eligible for Railway accommodation and had been sharing the accommodation with the retiring or deceased Railway servant for atleast six months before the date of retirement or death.

2. A question has been raised whether a substitute should be permitted to share the Railway accommodation with his father and whether on the retirement of his/her father the substitute should be given out of turn allotment.

3. The issue have been examined in consultation with the Railway Board and the Board have clarified as under :-

- 1) A ward of the Railway employee who is employed on the Railway as a Substitute can be permitted to share the Railway accommodation with his father.
- ✓ ii) A person who is employed as a Substitute on the Railway is not eligible for allotment of Railway accommodation. He will be eligible for allotment of quarters only after he is absorbed in regular service.
- ✓ iii) The concession of out of turn allotment can be extended to a dependant relative only if he is in regular service and has been sharing accommodation for a period of 6 months during regular service before the date of retirement/death of his father.

4. The above instructions are issued for guidance and necessary action.

Hindi version will follow.

True Copy

MS

Sd/-
for General Manager/E.

निदेशक प्रमुख
श्री. ए. भास्करावर पट्टी
WORKS MANAGER,
GR. RD. Bhaynagar Par

Western Railway

R/2 27

No.WM/E.58/9 vol.II

Works Manager's
W.Rly. Bhavnagar para.
Dt/- 30.4.90

To,
Shri Chhaganlal Jiwabhai Yadav,
Retired Chargeman 'B' of BVP shop
Railway Quarter No.L/326/A (type I)
Bhavnagar para.

Sub:- Retention of Rly. quarter No.326/A for further eight months from 1.5.90 to 31.12.90 in continuation to four months from 1.1.90 to 30.4.90 after date of retirement i.e. 31.12.89 AN.

Ref:- Your application dtd.12.12.89 and 23.4.1990.

The contents of Railway Board New Delhi's letter No. E/G/78 RN 2-44 dtd.20.5.78 circulated under GM/E/CCG's letter No.EP/58/18 dtd.9.5.83 are reproduced below for information and n/action.

Events.	Permissible period of retention of the residence.
Retirement.	a) 2 months on normal rent. b) Further 2 months on double the assessed rent or 10 % of the employee's emolument on his last post, whichever is higher, in the event of the retiring employee making a request for retention of quarters on grounds of children studying in Schools/college.

This is subject to the condition that in no case retention of accommodation should exceed four months from the date of retirement or the end of the School session whichever is earlier.

You are retired on 31.12.89 AN and as per your application dtd.12.12.89 to allow retention of Rly. quarter No.326/A for 4 months from 1.1.90 to 30.4.90 on account of unavoidable family circumstances was granted vide CWM/E/AII's letter No. EW/58/18 vol.II of 9.1.90.

As the retention period of 4 months is already completed on 30.4.90, please vacate the above quarter immediately and hand over the possession of the same to SS/W/BVP immediately. The further retention of Railway quarter as requested vide your application is not permissible as per Rly. Board's letter cited above.

Sd/-
Works Manager,
Bhavnagar para.

C/- SS(W)BVP for inf. and n/action with ref. to his letter No. E/58/0 of 28.4.90.

True Copy

अर्थी
निमोन प्रबन्धक
व.रे. भावनगर पद
WORKS MANAGER,
W. Rly. Bhavnagar Para

Western Railway

P.S.No.139.

No.EP.58/0

R/3
Headquarter office,
Churchgate, Bombay
Dt/- 7.6.84.

All concerned.

C/- General Secretary, WRMS/BCT,
-do- WREU/GTR.

Sub:- Allotment of Railway quarters to non-gazetted
staff - Eligibility for sharing of accommodation
by substitutes.

Ref:- This office circular letter No.EP/58/0 dtd.11.4.83.

Para 3 (iii) of this office circular letter No.EP/58/0
dtd.11.4.83 may please be corrected to read as under :-

✓ (iii) The concession of out turn allotment as admissible
in terms of Board's letter No.E/G/73 QR1-23 dtd.19.12.81,
circulated vide this office letter No.EP/58/0 dtd.30.12.81,
can be extended to son, daughter, wife, husband, or father
if the same relation is in regular service and had been
sharing accommodation for a period of 6 months before the
date of retirement or death of a Railway servant.

Hindi version is enclosed.

Encl : One.

Sd/-
for General Manager/E.

True copy

ms shy
महोदय प्रमुख
व. व. भावनगर पर
WORKS MANAGER
व. व. भावनगर पर

Western Railway

No.WM/E. 891/6(i)

WM's office, BVP.
Dt/- 20.4.90

-: Office order No.87 /1990 :-

Sub:- Screening casual labour/subst. BVP shop.

=====

Screening of the following substitute tea boy working in BVP shop Canteen is conducted on 20.4.90 and the under mentioned Subst. has been declared suitable and placed on the panel ~~as~~ provisionally for regular absorption as Canteen tea boy in scale Rs.750-940(RP).

S.No.	Name.	Date of birth.	Total No.of days.	Eductional qualification.
1.	Shri Haresh Chhaganlal.	28.2.61	120 days.	9th passed.

This has the approval of WM BVP.

Hindi version will follow.

Sd/-
WM/BVP.

C/- SS/W/BVP for inf. and n/a. with ref. to his letter No. E/891/ dt.12.4.90.

C/- O.O. file, Party concerned, P/case,

C/- Dy1.Secy.WREU/WRMS-BVP.

C/- Case No.WM/E.633/2, CC/Union, WM/E.649/2/1.

=====

True Copy

nsghy
मिशन प्रमोशन
ए. डी. भायनगर पदा.
WORKS HASAUR,
ए. डी. भायनगर पदा.

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 201 OF 1990

Shri Hareshkumar Chhaganlal
& 1 another, Bhavnagar

11: APPLICANTS

V/s

Union of India & one another

11: RESPONDENTS

REJOINDER IN AFFIDAVIT

I, Haresh Chhaganlal, Applicant No.1 in this case 326, A
do hereby declare on solemn affirmation as under:-

That I have been read over and explained the contents of the reply filed by the respondents in this case. The Applicants do not admit the truth or correctness of various statements, averments, allegations, and contentions set out in the reply unless the truthness or correctness of any of them is expressly and specifically admitted herein.

In reply to para 4,5,6,7 and 8, the statements made therein are incorrect and not admitted to be true. The order of the General Manager is quite clear and in favour of the applicant on the basis of the circumstances of the case. It is not true that the conditions for allotment of quarter No.326/A, which is type I, are not fulfilled in this case. It is not true that the applicant is not entitled to the allotment of the quarter. The applicant No.1 could not seek permission for sharing of accommodation with his father since prior to 6.12.1989, he was kept out of employment illegally. That the honourable Tribunal has decided the issue in favour of the applicant with directions and accordingly the applicant is granted continuity of service and other benefits from 27.5.1985. The applicant was out of employment and therefore he could not seek for permission to share accommodation allotted to his father. But the facts remains, and which is not disputed by the respondents, and that the applicant still reiterates that he was living with his father and is still living with his father. That the sharing of accommodation by him with his father exists ~~xxxxxx~~ from his childhood and from the date applicant No.2, i.e. father allotted with the quarter.

According to the rules of the respondents it is necessary that the father and son should share accommodation at least for 6 months prior to retirement of father if the son is to be allotted with the quarter after retirement of father. In this case since he was kept illegally out of

the son could not seek permission to share the accommodation allotted to his father before 6 months of father's retirement. Though the suit was pending from 1982, it was finally decided by this honourable Tribunal only on 8.9.1989. If the son is allowed to share accommodation with his father, the father will not get HRA and rent will be deducted from father's salary. HRA will be deducted from the salaries of son also. Now the son could be denied the HRA for the six months period preceding to the retirement of father, which otherwise also he is not paid as per the honourable CAT's orders. In sharing accommodation applicant No.2 was not liable to pay any additional rent as per rules.

The approach of the railway administration is more technical with the sole intention of denying the benefit to the applicant. The applicant No.1 has been given continuity of service for the purpose of regularisation from 27.5.85. The applicant No.1 has also been granted proforma fixation etc. from 27.5.1985, being senior to Shri Kirit B by office order dt.12.4.90 produce at A/7 with the petition. According to General Manager's orders dated 23.3.1990 Annexed A/5 the matter is already decided and therefore the Works Manager, who is below the General Manager has no locus standie to not act upon the same or to give other interpretation. The applicant was due long back for screening and to be placed on the panel and for regular appointment, which was withheld and not granted to him illegally and which were released to him only after the orders of the honourable Tribunal in TA No.868/86. It is not true that the applicant has not fulfilled the relevant conditions as laid down in the General Manager's letter or that the applicant is not entitled and not eligible to allotment of railway quarter ~~Max~~ out of turn. It is not true that the request of the applicant for allotment of railway quarter No.326A on out of turn basis is not tenable.

Rajkot

Date : 2.7.1990

Identified by

(Advocate)

M.M.02A

Halesh Chugh
DEPONENT

I solemnly affirm that
by *Halesh Chugh*
Who is Identified before me
by *Shri. M.M.02A* Advocate
Whom I Personally Know

SHAVNAGAR Clerk of the Court
2.7.90 District Court
Shavnagar

