

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA 1226 of 1996

Present : Hon'ble Mr. D.C. Verma, Vice-Chairman  
Hon'ble Mr. M.K. Mishra, Administrative Member

A. K. Sanyal

- VS -

S.E.Railway

For the Applicant : Mr. T.K. Biswas, Counsel

For the Respondents: Mr. B.P. Roy, Counsel

Date of Order : 31-08-2004

ORDER

MR. D.C.VERMA, VC

Heard Mr. Biswas, Id. Counsel appearing for the applicant and Mr. Roy, Id. Counsel appearing for the respondents.

2. By this O.A. the applicant challenged the impugned order dated 20-9-1996 (Annexure-A/11).

3. The fact of the case is that one Mr. Smith was allotted quarters No.T/41/C.3. After the death of Mr. Smith, the applicant filed one O.A. being No. 234 of 1990 contending therein that he was asked by Mr. Smith to look after the quarter as his family was not occupying the said quarters. The applicant resisted the respondents' eviction proceedings and challenged the notice of eviction dated 16-1-1990. The said O.A. was decided vide order dated 19-8-1994. The Tribunal held that the applicant is a rank outsider and unauthorised occupant of the said quarters. After dismissal of the said O.A. the applicant filed review petition No. 95 of 1994 which too

Contd...

was rejected vide order dated 2-8-1996. Thereafter, the respondents passed the order dated 20-9-1996 which is impugned in the present O.A.

4. From the facts disclosed in the O.A. it appears that the applicant's father, late Arun Kumar Sanyal, was also a railway employee and he was allotted quarters No.T/5-C, Unit No.3 in which applicant's father lived. The quarters in question before this Bench is T/41/C.3. Both the quarters, as stated, are located in the same locality. According to the Ld. Counsel for the applicant, after the death of the applicant's father, daughter (i.e. applicant's sister) was given appointment on compassionate ground. After her marriage she left with her husband. So, the applicant occupied the said quarters for which the applicant seeks regularisation.

5. From the facts it further appears that the quarters No. T/41/C-3 was initially allotted to Mr. Smith in 1984. The applicant is occupying the said quarters since 1986, unauthorisedly and without any order of allotment. The various steps taken by the Department for getting the quarters vacated have been resisted by the applicant by filing OA, RA etc. It is admitted fact that the earlier O.A. filed by the applicant has already been dismissed wherein it was held that the applicant is a rank outsider. There is nothing on record to show that the quarters No.T/41/C-3 was ever allotted to the applicant's father or was regularised in the name of the applicant. The stand taken by the applicant in the earlier O.A. with regard to quarters No.T/41/C-3, as stated, was that it was on the request of Mr. Smith, the applicant came to occupy the said quarters only as a caretaker. Since then applicant is living in the said quarters. There is no document on record that the applicant came to occupy the said quarters in any lawful or authorised manner. The applicant is accordingly a rank outsider for

  
Contd...

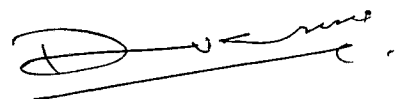
which damage rent as may be ascertained as per rule, is to<sup>be</sup> realised.

6. Id. Counsel for the applicant refers to Annexure-A/9 by which a request was made by the Deputy CME(Prod./KGP) to Sr. D.O.M., S.E. Railway, Kharagpur for transfer of the quarters No.T/41/C-3 to Dy.CME/P's pool so that allotment may be considered in favour of A.K. Sanyal to finalise the long pending case. We have considered the same, but we are unable to agree with the submission of the Id. Counsel for the applicant. Annexure-A/9 is only an internal correspondence for arrangement/transfer of quarters from one pool to another pool. Thereafter, the same is to be allowed to a person in queue. The applicant has no right to occupy the quarters unauthorisedly in anticipation of transfer of quarters to the pool and thereafter its final allotment.

7. Id. Counsel for the applicant further submits that the assessed damage rent is too much for him. We are, however, unable to agree to his submission as it has not been shown that whatever has been assessed is not as per rule. As the applicant has been in occupation of the said quarters unauthorisedly, he is liable to pay the damage rent as per rule.

8. In the result, the O.A. has no merits and the same is accordingly dismissed. Costs easy.

  
Member(A)



Vice-Chairman

DKN