

In the Central Administrative Tribunal  
Calcutta Bench

OA No.841 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Pravash Prashun Pandey

.... Applicant

- VS -

- 1) Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
- 2) Union of India, service through the General Manager, Eastern Railway, 17, N.S. Road, Calcutta.
- 3) The Divisional Railway Manager, Sealdah Divn., Eastern Rly, Calcutta.
- 4) The Senior Divisional Personnel Officer, Sealdah, Eastern Rly, Cal.

.... Respondents

For the Applicant : Mr. M. Lal, Advocate

For the Respondents: Mr. P.K. Arora, Advocate

Heard on : 15-01-1999

Date of Judgement : 15-01-1999

O R D E R

The grievance of the applicant in short is that applicant is a Class I Officer under the respondents and he had been allotted a quarters No.246/D, Railway Officers' Bungalow, Sealdah and he occupied the said quarters since December, 1995. Thereafter, he was allotted another quarters being No.208/F (Type IV Special) at Officers' colony, Sealdah vide letter dated 21.11.96 (Annexure-B to the application). According to the applicant, in pursuance of the said letter of allotment dated 21.11.96 he took possession of the quarters from the person, namely, Shri V.K. Panjwani, Senior DEN/II, Sealdah on 10.6.97 and thereafter when he proceeded to the said quarters on 11.6.97 for shifting materials, he found that another lock was put on the front door. As a result he was

physically prevented from shifting his material to that quarters and that matter has been intimated to the authority vide letter dated 12.6.97. Subsequently, applicant came to know that another lock was put in the said quarters, and the matter has been reported to the Officer-in-Charge, Narkeldanga Police Station on 27.6.97. Grievance of the applicant is that while he expected to enjoy the quarters as per letter of allotment, he came to know <sup>from the</sup> vide letter dated 1.7.1997 that the quarters was allotted to in favour of another person, namely, Shri M.S. Pal, DEN/I, Sealdah without cancelling the order of earlier allotment made to him. Since he could not occupy the possession of the quarters for the above reason, he filed this application seeking direction upon the respondents not to disturb the legal possession of the railway quarters bearing No.208/F, at Officers' Colony (Type IV Special), Sealdah by the applicant. It is also prayed that the said impugned order dated 1.7.97 disentitling him from occupying the railway quarters bearing No.208/F (Type IV Special) at Officers' Colony, Sealdah should be cancelled as it is illegal and arbitrary.

2. Respondents resisted the claim of the applicant by filing written reply. It is admitted by the respondents that the quarters bearing No.208/F had been allotted in favour of the applicant through mistake. Accordingly, actual physical possession or vacation of the quarters bearing No.208/F was reviewed and it is seen that the said quarters was vacated by the occupant on 10.6.97. Thereafter, earlier allotment order was cancelled by <sup>DRM</sup> and the said quarters was allotted in favour of Shri M.S. Pal, DEN/I, Sealdah in terms of recommendation of Senior DEN/C and approved by DRM. Shri Pal had applied for allotment of quarters on 20.5.97 on being transferred from Asansol Division and was waiting without any accommodation. It is also stated that applicant was occupying the quarters bearing No.246/D, Sealdah at the same station. It is stated that the quarters was allotted in favour of Shri M.S. Pal for administrative exigency. It is also stated that on the basis of the allotment Shri Pal already occupied the quarters. It is stated that at present applicant is working at Kanchrapara Workshop which is at a

distance of about 40 kms from the present place of quarters at Sealdah. It is also stated that since applicant was working at Kanchrapara Workshop, thereby he may be entitled to retain the quarters at Kanchrapara if the applicant thinks fit and proper. So, application is devoid of merit and liable to be dismissed.

3. Lt. Advocate Mr. Lal on behalf of the applicant submits that the order of cancellation was not issued and communicated to the applicant before allotment of the quarters in favour of Mr. Pal as <sup>44</sup> admitted by the respondents. According to Mr. Lal, applicant got the quarters on 10.6.97; but he did not shift his materials to the quarters on 10.6.97. When he went to shift his materials on 11-6-97 the quarters was found under lock and key. Accordingly, he intimated the matter to the authority. He reported the matter to the Police Station also. But respondents did not take any action over the matter. So, applicant approached this Tribunal and thereby order of allotment of quarters in favour of Shri Pal is illegal and arbitrary as applicant is entitled to retain the quarters bearing No.208/F as per letter of allotment dated 1.7.97.

4. Lt. Advocate Mr. Arora, appearing on behalf of the respondents, submits that applicant did not take possession of the quarters from the competent authority as per rules and he did not occupy possession of the quarters till 12.6.97 as stated <sup>in the</sup> ~~vide~~ letter dated 12.6.97 (Annexure-D to the application). He further submits that an FIR was lodged by the applicant to the Officer-in-Charge of Narkeldanga Police Station stating that he did not take possession of the quarters till 26.6.97 since on 26.6.97 at about 19.00 hrs. he found that the lock had been broken and somebody had entered into the house for reason unknown. According to the respondents, applicant did not come with clean hand and made a wrong statement in respect of alleged occupation of the quarters by him. In view of the aforesaid circumstances, I find that respondents allotted the quarters in favour of the applicant ~~vide~~ letter dated 21.11.96 (Annexure B to the application) where it is mentioned that the quarters bearing No. 208/F (Type IV Special) at Officers' Colony, Sealdah was allotted to the applicant on vacation of the said quarters by Shri V.K. Panjbar, Sr.DEN-IT/Sealdah. It is further mentioned that the said report of occupation

and vacation may please be submitted to DPO, Sealdah in due course. It is also found from the letter dated 10.6.97 written by the applicant to the Divisional Railway Manager that he took possession of the quarters on 10.6.97 from Shri V.K. Panjiar on his vacation of the quarters. It is found that he took possession of the quarters from Shri V.K. Panjiar who occupied the same before his allotment. At the same time it is found that the quarters was subsequently allotted to Mr. M.S. Pal vide letter dated 1.7.97. Case of the respondents as I find is that due to administrative exigency they allotted the quarters in favour of Shri M.S. Pal since it was found vacant on 10.6.97. But facts remain that before cancellation of the quarters, no opportunity of being heard was given to the applicant. On the basis of the said facts I am of the view that respondents cancelled the allotment order on 1.7.97. Such action appears to be arbitrary, irregular and violation of principles of natural justice. <sup>However</sup> I find that applicant is working at Kanchrapara Workshop which is 40 K.M.s from the place of Sealdah. But Advocate Mr. Lal on behalf of the applicant could not produce any rule before me to show that he is entitled to get the quarters at Sealdah after his transfer from Sealdah to Kanchrapara which is 40 K.M.s from the Sealdah Station. It is found that Mr. Pal, respondent No.6, occupied the quarters as per letter of allotment. However, I find that applicant sought declaration to that effect that order of allotment in favour of Shri Pal is illegal and arbitrary. At the same time he also sought direction to retain the quarters and that he should not be disturbed to take possession of the quarters bearing No.208/F. I find that such declaration cannot be granted under the aforesaid circumstances in view of the fact that he is not in possession of the quarters. Thereby, the relief sought for is redundant. Accordingly, applicant is dismissed with the aforesaid observation.

  
( D. Purkayastha )  
Member (J)