

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

D.A.No.53/2003

Thursday this the 25th September 2003

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

P.Ramachandran Nair, Mate
O/o the Executive Engineer/Construction
Ernakulam, residing at
Railway Quarter No.132A, Ernakulam.

Applicant

(By Advocate Mr.T.C.Govindaswamy)

Vs.

1. Union of India represented by the General Manager, Southern Railway Headquarters Office, Park Town PO Chennai-3.
2. The Divisional Railway Manager Southern Railway Trivandrum Division, Trivandrum.
3. The Estate Officer Southern Railway Trivandrum Division, Trivandrum
4. The Senior Divisional Personnel Officer Southern Railway Trivandrum Division, Trivandrum.
5. The Executive Engineer/Construction Ernakulam.
6. The Deputy Chief Engineer, Construction Southern Railway, Ernakulam.

Respondents.

(By Advocate Mr.P.Haridas)

The application having been heard on 25.9.2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN.

The applicant working as a Mate under the Deputy Chief Engineer/Construction, Ernakulam has filed this application challenging Anxx.A10 order dated 29.5.2002 of the Senior,

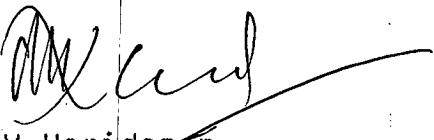
Divisional Personnel Officer, Trivandrum, advising the applicant to vacate the Railway Quarter which was found to be on unauthorised occupation w.e.f. 14.6.2001 and informing him that failure to do so would entail action under DAR as also proceedings for eviction and Annx.A19, order dated 4.1.2003 of the Dy.Chief Engineer to the extent it states that damage rent at the rate of Rs.2150/- per month w.e.f. 22.6.01 and Rs.4300/- per month w.e.f. 1.5.2002 would be recovered from him for his unauthorised occupation of Quarter No.144C Type II.

2. The applicant has stated in the application that a Type II quarter is absolutely essential for his residence in the present state of his health as he had undergone an amputation of both the legs. He had occupied a Type II Railway Quarter though unallotted when there was heavy rain and the rented house was flooded. His requests for regularisation of his occupation have not been considered so far.

3. The respondents have filed a detailed reply statement resisting the claim of the applicant. However, when the application came up for hearing it is noticed that an appeal dated 20.12.2002 submitted by the applicant to the first respondent, General Manager has not been considered and disposed of. The counsel on either side agree that the application may be disposed of with an appropriate direction to the first respondent to consider the appeal of the applicant and take a decision and directing that no recovery on the basis of Annx.A10 and Annx.A19 should be taken till the General Manager decides the issue.

4. I am of the considered view that the submission of the counsel is very reasonable. Though the occupation of the quarter by the applicant without it being allotted to him may amount to unauthorised occupation, the General Manager, who is the competent authority may take into consideration the circumstances which led to that situation considering the injury sustained by the applicant during the course of his employment and take a lenient view in the matter. In the interests of justice and in view of the statement made by the learned counsel on either side and the peculiar facts and circumstances of the case, I dispose of this application with a direction to the Ist Respondent No.1, the General Manager, to consider sympathetically the claim made by the applicant in the appeal Annx.A.18 and dispose of the same with an appropriate order. Till the matter is decided by the first respondent, I direct no recovery be made from the pay and allowances of the applicant by way of penal rent for the unauthorised occupation of Quarter No.144C. No costs.

Dated the 25th day of September, 2003



A.V. Haridasan
Vice Chairman.

kkj.