

Final Order
29-2-1988

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

OA No.572/86

C Subramanian : Applicant

Vs

- 1 Senior Divisional Mechanical Engineer, Southern Railway, Trivandrum
- 2 Divisional Personnel Officer, Southern Railway, Trivandrum
- 3 Permanent Way Inspector, Southern Railway, Cochin Harbour Terminus, Ernakulam, Kerala

: Respondents

Mr Ashok M Cherian : Counsel for Applicant

Mrs Sumathi Dandapani : Counsel for Respondents

CORAM

Hon'ble Shri G Sreedharan Nair, Judicial Member

ORDER

The applicant, a Loco Khalasi in the Southern Railway has filed this application for quashing the order of the first respondent dated 19.11.85 calling upon the applicant to vacate the quarters occupied by him. He prays for out of turn allotment of the said quarters, which had been allotted to his father who was a ~~Gangman~~ under the Railways. It is alleged that on 25.1.79 the applicant had made a submission to the second respondent pointing out that he is sharing the said quarters with his father and requesting to recover House Rent Allowance from his ~~Emoluments~~.

Since the House Rent Allowance was not being recovered, and it is alleged, on 28.5.79 a representation was given to the first respondent for allotting the quarters pointing out that his father has retired from service on 30.6.79. According to the applicant, despite several representations as the quarters was not allotted as requested, the present application has been filed.

2 A reply has been filed on behalf of the respondents wherein it is stated that the applicant had never informed the railway administration that he is sharing accommodation with his father, during the period when his father was in service. It is stressed that throughout the tenure of the father of the applicant, the applicant has drawn House Rent Allowance. They have specifically denied the receipt of the letter dated 25.1.79 and 28.5.79.

3 It falls to be decided whether the applicant is entitled to out of turn allotment of Railway Quarters No.16/A at Cochin Harbour Terminus. Admittedly, this quarters was occupied by the father of the applicant who was a Gangman under the respondents and who retired on superannuation on 30.6.79. According to the relevant rules, the son, daughter, wife, husband or father of a railway servant who having been allotted railway accommodation retires from service, is entitled to out of turn allotment of the quarters provided such relative

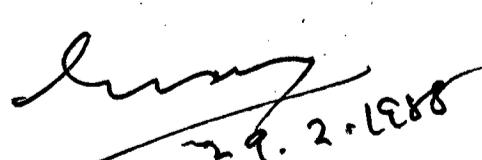
is a railway servant eligible for railway accommodation and had been sharing accommodation with the retired railway servant for atleast 6 months before the date of retirement. If such relative has been drawing House Rent Allowance during the relevant period, he or she is not eligible for the allotment. The Railway Board has made it clear that even if such relative offers to refund the House Rent Allowance that shall not be accepted. The claim of the applicant has to be judged in the light of these rules. No doubt, the applicant is the son of ~~the~~ ^a retired employee. But, even the factum of sharing quarters with his father is denied by the respondents. No proof has been produced by the applicant to establish that he was actually sharing accommodation with his father during the prescribed period of 6 months prior to the retirement of the latter. Counsel of applicant placed reliance on the copy of the letter dated 25.1.79 (Annexure-A) wherein there is a statement to the effect that the applicant is staying in the quarters allotted to his father. This letter is referred to as a "submission" made by the applicant to the second respondent. The second respondent has in the affidavit filed by way of reply stated that no such letter has been received by any of the respondents. The applicant has also produced copy of representation stated to have been submitted to ~~the~~ ^l ~~have been submitted~~ to the first respondent on 28.5.79. The applicant hasnt established that the original of Submission 25.1. the ~~application~~ dated 28.5.79 and the representation

dated 28.5.79 have actually been submitted ~~to~~ ^{by} the respondents as alleged. It is not disputed by the applicant that all along he has been receiving House Rent Allowance. If as a matter of fact, the applicant had given the submission on 28.5.79 requesting to recover House Rent Allowance from him, evidently ~~was~~ to enable him for out of turn allotment of the quarters occupied by his father, he would have seen that the House Rent Allowance is not received atleast thereafter.

4 On the material on record it cannot be said that the applicant had been sharing accommodation with his father, a retired railway servant, for atleast 6 six months prior to the date of retirement ^{on} of the latter. It is admitted fact that the applicant had been receiving House Rent Allowance till the retirement of his father, and even thereafter.

5 In the circumstances the respondents cannot be faulted for rejecting the request of the applicant for out of turn allotment of the quarters and in calling upon him to vacate the quarters that was allotted to his father.

6 The application is dismissed.


(G Sreedharan Nair)
Judicial Member

Index: Yes/No