

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.NO. 95 OF 1996

THURSDAY, THIS THE 3RD DAY OF APRIL, 1997

C O R A M :

HON'BLE MR A M SIVADAS, JUDICIAL MEMBER

S Peter Antony
Mail Driver
Southern Railway
Nagercoil Junction
(residing at :
Railway Quarters No.12-B
Railway Colony
Nagercoil
Tamil Nadu)

.. Applicant

By Advocate Mr TCG Swamy

Vs

1. Union of India through
the Secretary to the
Government of India
Ministry of Railways
Rail Bhawan
New Delhi
2. The General Manager
Southern Railway
Headquarters Office
Park Town P.O
Madras - 3
3. The Divisional Railway Manager
Southern Railway
Trivandrum Division
Trivandrum - 14
4. The Senior Divisional Mechanical Engineer
Southern Railway
Trivandrum Division
Trivandrum - 14
5. The Secretary
Housing Committee and the
Assistant Personnel Officer
Southern Railway
Trivandrum Division
Trivandrum - 14

.. Respondents

By Advocate Mr Thomas Mathew Nellimoottil

The application having been heard on 3.4.1997, the
Tribunal on the same day delivered the following :

O R D E R

The applicant is employed as Mail Driver at Nagercoil
Junction of Trivandrum Division. While he was working as
Passenger Driver at Nagercoil Junction in the year 1988

he was promoted as Mail Driver and transferred to Quilon. He joined in the new Station on 30.4.1988. While at Nagercoil, he was in occupation of Railway Quarter No.12-B. He was not allotted any accommodation by the Railways at Quilon. He submitted a request on account of his domestic problems for retention of railway quarter No. 12-B for a period of six months from the date of his relief. The request was granted as per A-1. As per A-1, he was permitted to retain the said railway quarter at Nagercoil Junction from 1.5.1988 to 30.6.1988 on normal rate of rent and from 1.7.1988 to 31.10.1988 on penal rent. As he was not able to vacate the said quarter, several representations were made to the authorities concerned, for his continued occupation. Representations were not responded to. However, he was allowed to continue on double the rate of licence fee. As per A-2 he was transferred back to Nagercoil. The Railway quarter which the applicant continued to occupy at Nagercoil was re-allotted to him on his transfer back to Nagercoil as per A-3 with effect from 5.9.1991. Subsequently, as per A-4 dated 9.6.1994, A-3 order dated 31.1.1994 was partially modified and date of re-allotment was made to come into effect from 31.1.1994. It is also stated in A-4 that damage rate of rent would be deducted from applicant's salary with effect from 1.5.1988. The representation made as per Annexure A-5 by the applicant was rejected as per A-7.

2. The applicant for the said reasons, seeks to quash A-4 and A-7 and to direct the respondents to grant consequential benefits of quashing of A-4 and A-7.

3. A-4 is issued by the Secretary, Housing Committee. It is stated by the applicant that it is issued by the 5th respondent, xxxxx the Assistant Personnel Officer as Secretary, Housing Committee, who is not the authority competent to issue the same, since under the provisions

of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Divisional Railway Manager is appointed as the Estate Officer. The averment in the OA on this aspect is not denied in the reply statement filed by the respondents. Learned counsel appearing for the respondents did not bring to my notice any provision of law which empowers or authorises the 5th respondent to issue A-4. So his position is that A-4 is issued by an authority who is not competent to issue the same and therefore, it is not valid in the eye of law.

4. That apart, as per Section 7 (3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, a show cause notice is to be issued to the occupant specifying a time limit. It is specifically stated in the O.A that the provision of Section 7 of the said Act has not been complied with by the respondents while issuing A-4. This averment is also not denied by the respondents in their reply statement. So A-4 is bad in law as it is issued in violation of Section 7 (3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

5. Even though certain other grounds are also raised in the O.A, since on the two grounds stated above, A-4 is liable to be quashed, it is not necessary to go into other aspects.

6. Accordingly, A-4 is quashed. Consequently, A-7 is also quashed. It is made clear that this will not stand in the way of respondents to proceed against the applicant to recover whatever amount is legally due from the applicant in accordance with law.

7. OA is disposed of as above. No costs.

Dated, the 3rd April, 1997.


A M SIVADAS
JUDICIAL MEMBER

List of Annexures

1. Annexure A1: A true copy of the ~~QRRXX~~ letter bearing No.V/M 555 dated 25.5.88 issued by the first respondent.
2. Annexure A2: A true copy of the Office Order bearing No.6/91/RG dt.3.7.91 issued by the Assistant Personnel Officer, Southern Railway, Trivandrum Division.
3. Annexure A3: A true copy of the ^Memorandum bearing No.V/P 555/GL dated 31.1.94 issued by the fifth respondent.
4. Annexure A4: A true copy of the ^Memorandum bearing No.V/P 535/CL dated 09.6.94 issued by the fifth respondent.
5. Annexure A5: A true copy of the representation dated 29.6.94 submitted by the applicant to the third respondent.
6. Annexure A7: A true copy of the letter No.V/P 555/NCJ/Vol. IV dt.15.9.95 issued by the third respondent.