

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.96/97

Friday, this the 30th day of May, 1997.

C O R A M

HON'BLE SHRI AV HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

M Smile, Gang Man,
Gang No.1, Karur,
Under Section Engineer,
Southern Railway, Palayam,
Residing at No.49,
Arunachala Nagar,
Pasupathipalayam,
Karur Post.

....Applicant

By Shri TC Govinda Swamy.

VS

1. The Additional Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.
3. The Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.
4. The Section Engineer,
Office of the Section Engineer,
(Permanent Way Inspector)
Southern Railway, Palayam,
Railway Station & Post,
Near Karur, Tamil Nadu.
5. Shri Asai Thambi,
Key Man, Gang No.1,
Southern Railway,
Karur, Tamil Nadu.

....Respondents

R.1-4 by Advocate Shri K Karthikeya Panicker.

The application having been heard on 30th May, 1997,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI AV HARIDASAN, VICE CHAIRMAN

The applicant, a Gangman, is aggrieved by the allotment of
a residential quarter to fifth respondent overlooking his seniority

contd.

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of registration for such allotment. Applicant has filed this application for quashing the order dated 6.4.96 denying him allotment and allotment of a quarter to Shri Asai Thampi who succeeded Shri M Palani in the post of Key Man.

2. Notices were issued to respondents. Fifth respondent, who has received notice, did not appear.

3. Respondents 1 to 4 in their reply concede that going by the seniority of registration for allotment of residential quarters, applicant is entitled to allotment of the quarter which was allotted to the fifth respondent in accordance with the rules regarding allotment. However, respondents seek to justify their action in allotting the quarter to the fifth respondent overlooking the superior claim of the applicant on the ground that the post of Key Man which the fifth respondent is holding, is more important than that of the Gangman, and that as the applicant had failed in his duties for which disciplinary action had been taken against him and that for these reasons, the quarter was allotted to the fifth respondent overlooking the applicant's priority of registration.

4. After hearing learned counsel on either side, and on a perusal of the pleadings, we are of the view that the action of the respondents 1 to 4 are illegal, arbitrary and unjustified. They have conceded that as per the allotment rules, the applicant was entitled to get the quarter allotted before the fifth respondent. They have no case that the quarter in question was earmarked for allotment to a Key Man. They have also no case that as per the rule, preference has to be given to Key Men for allotment of quarters. They have also not contended that any order has been passed disentitling the applicant from allotment of a quarter for his failures or lapses. Under these

contd.

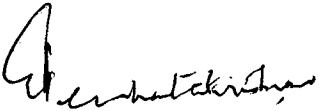
circumstances, we fail to understand how the respondent Railway could ignore the claim of the applicant and allot the quarter to a junior in the matter of registration for allotment of quarters. The action of the respondent Railway, which is against the rule, is sought to be justified as it was made on administrative grounds. If preference needs to be given to Key Men over Gangmen in allotment of quarters, the Railway could have amended the rules accordingly. So long as that was not done, the action can only be held as arbitrary, illegal and wholly unjustified.


5. In the light of what is stated above, the application is allowed. The allotment of the quarter No.65/KRR in favour of the fifth respondent overlooking the claim of the applicant is set aside and the respondents 1 to 4 are directed to allot the quarter to the applicant forthwith, at any rate, not later than a month from the date of receipt of this order.

6. The contention raised by the respondent Railway that Union of India is a necessary party and that for non-impleadment of Union of India, the application is liable to be dismissed has only to be rejected as impleadment of Union of India is not at all essential in this case.

7. No costs.

Dated the 30th May, 1997.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


AV HARIDASAN
VICE CHAIRMAN