

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

DATED: 31st March, 1992

O.A.130/91
O.A.204/91

E.B. Somasekharan

Applicant in O.A. 130/91
& O.A. 204/91

The Divisional Railway Manager,
Southern Railway, Trivandrum,

The Electrical Foreman,
Southern Railway, Quilon

The Sr. Divisional Electrical
Engineer, Southern Railway,
Trivandrum

X
X
X
X
X
X
X

Respondents in both the
cases

The Divisional Personnel Officer
Southern Railway, Trivandrum

Respondent in O.A. 204/91

Mr. P. Sivan Pillai

Counsel for applicant in
both cases

Smt. Sumathi Dandapani

Counsel for Respondents
in both the cases.

CORAM

HON'BLE MR. P.S. HABEEB MOHAMED, ADMINISTRATIVE MEMBER

&

HON'BLE MR. N. DHARMADAN, JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant in both the cases are the same. The question which arises for consideration pertains to allotment of quarters and the applicant's right to continue to occupy his present quarters of type-I category. Hence, both cases are heard together and disposed of by a common order.

2. The main question that arises in O.A. 130/91 is about the eligibility of the applicant to get allotment of Type-I quarters at Quilon for which he has made registration on

2.9.1985.

3. According to the applicant, while he was working as a group-D employee, he has been allotted a type-I quarter. Later when he became eligible for a type-II quarter in 1984, he registered his name on 2.9.1985. Thereafter, he was transferred to Trivandrum on 20.9.1986. The applicant retained the quarters notwithstanding his transfer. Then the applicant filed O.A. 623/86 challenging the transfer. Later, the applicant was transferred back to Quilon on 6.9.1987. Because of the transfer of the applicant from Quilon to Trivandrum, his priority for allotment of type-II quarters based on the earlier registration was reconsidered by the respondents and the applicant again registered his name for type-II quarters on 18.12.1987.

4. When the case came for final hearing, the learned counsel for the applicant submitted that his claim for type-II quarters may be considered from 18.12.1987, the date of the subsequent registration after his re-transfer to Quilon. The learned counsel for the applicant also brought to our notice two of the orders issued by the Railway Board, Annexure A-2 and A-3, pertaining to allotment of quarters based on certain principles. Annexure A-3 is the earlier order. The relevant portion of

Annexure A-3 is extracted below:

"It has been decided that the vacancies becoming available in the 10 percent quota for the SC/ST employees should be allotted in the ratio of 2:1 to the SC and ST employees respectively. For this purpose, separate waiting lists should be prepared for the SC/ST employees in these two types. The instructions contained in para 4 of the Board's letter dated 27.7.72 referred to, will, however, continue to be applied except that the percentage of reservation of vacancies will now be 10 percentage instead of 5 percent as hitherto.

3. A point has been raised as to whether the rate of special allotment to be given to employees from these two communities is 10 percent of the vacancies occurring from time to time or whether a higher rate should be adopted so that the total number of type-II quarters occupied by the employees belong to the reserved communities in non-essential categories is brought upto the target of 10 percent. In this connection, it is clarified that as every 10th vacancy is taken as reserved for the above mentioned employees, the question of shortfall does not arise. The ad hoc allotment made to the SC/ST employees or allotments made to them in their turn are not to be adjusted against the reserved quota, i.e. these are in addition to the reserved quota fixed for them."

The further order ~~xxxxx~~ Annexure A-2 dated 27.9.83 is also relevant and it is extracted below:

"The question of extending reservation in allotment of railway quarters to the SC/ST employees working in all places was receiving the attention of this Ministry for some time under the special component plan for the upliftment of SC/ST under Prime Minister's 20 Point Programme. After careful consideration, the Ministry of Railways have now decided that with immediate effect, the reservation of 10 percent of type-I and type-II railway quarters should be made in favour of SC/ST employees in all the areas where the number of quarters is 50 or more. It is further desired that representative of SC/ST employees should also be included in the housing allotment committee in all the places wherever it exists."

A reading of both these orders, Annexure A-2 and A-3, will indicate that quarters are to be allotted to the SC and ST employees in their turn against a reserved quota in addition to the normal allotment as indicated in the aforesaid

letters. The reservation of 10% of type-I and type-II railway quarters should be made in all the areas where the total number of quarters existed is 50 or more.

5. During the course of the argument, a controversy arose as to whether there are more than 50 quarters available, for allotment to the SC/ST employees^{at Quilon. 4}. The learned counsel for the respondents wanted time to verify the same and accordingly we adjourned the case from 26.3.92 to today.

6. The learned counsel for the respondents submitted a statement admitting that there are more than 50 quarters available in the Quilon area but contended that the applicant is not eligible for allotment because he does not belong to non-essential category and thereby, he is not eligible to get allotment on the basis of relevant orders Annexure A-2 and A-3. Prima facie, we are not prepared to accept this contention in the light of Annexure R-2 list of employees who have⁴ registered their name for allotment of quarters, but in the view that we are taking in this case, it is not necessary for us to take final decision on this question.

7. Having regard to the facts and circumstances of the case, we are of the view that the applicant's claim for allotment of ~~a~~ type-II quarters at Quilon based on his registration as contained in Annexure R-2 requires to be

considered by the appropriate authority taking into consideration the principles of allotment of quarters contained in Annexure A-2 and A-3 mentioned above. Since the respondents have not decided the issue on the basis of of the existing orders at the relevant time of allotment, we are of the view that the application can be disposed of with the directions to the first respondent to decide the question of eligibility of the applicant to get a type-II quarters within the ~~100~~⁵ quota based on the principles laid down in Annexure A-2 and A-3 after giving an opportunity of hearing to the applicant. ^{we do so. b} This shall be decided within a period of two months from the date of receipt of a copy of this judgment. Till such a decision is taken, status quo as regards applicant's present occupation of a type-I quarters be maintained.

8. Regarding O.A. 204/91, the applicant's attack is against Annexure-A-2 order threatening vacation from type-I quarters and informing him that fresh allotment of quarters will be based on registration of his name. Since, we have already disposed of the connected case O.A. 130/91 with appropriate directions, it is not necessary for us to go into the legality of the order which is challenged in this case. The applicant will be allowed to continue in the

present type-I quarters till a decision is taken on the question that is referred to in O.A. 130/91.

9. In this view of the matter, we dispose of this application also along with the directions we have issued in the connected case. In case the first respondent decides in favour of the applicant, he shall be allotted type-II quarters. But if the decision goes against the applicant, he shall vacate the present occupation on receipt of a notice with a copy of an order from the first respondent passed by him pursuant to the directions.

10. Both the applications are disposed of as indicated above.

11. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER


(P.S. HABEEB MOHAMED)
ADMINISTRATIVE MEMBER

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- INDEX: 1. Whether Reporters of local papers may be allowed to see the judgment. *Yes*
2. To be referred to the Reporter or not *no*
3. Whether their Lordships wish to see the fair copy of the judgment. *no*
4. To be circulated to all Benches of the Tribunal *no*