

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.323/2005

Wednesday this the 7th day of September, 2005

CORAM:

HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

S.Murugesan, Sweeper-cum-Porter,
Elamanur Railway Station,
Palghat Division, residing at: Kanthamala Street,
Mohanur P.O., PIN:637 015. Applicant

(By Advocate Shri Martin G.Thottan)

Vs.

1. Union of India, represented by
the General Manager,
Southern Railway, Chennai.
2. The Additional Divisional Railway Manager,
Southern Railway, Palghat.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat.
4. The Station Master,
Elamanur Railway Station,
Elamanur, Tamil Nadu. Respondents


(By Advocate Mrs. Sumathi Dandapani)

The application having been heard on 7.9.2005
the Tribunal on the same day delivered the following:

ORDER(Oral)

HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant is presently working as Sweeper-cum-Porter at Elamanur Railway Station in the Palghat Division of Southern Railway. The applicant joined at Elamanur Railway Station in the year 1997 and at that time there were two more Sweeper-cum-Porters working at the same Station. The applicant along with his family consisting of aged parents, wife and two children were residing at Mohanur in a rented house. The applicant had not made any request for allotment of railway quarters for the specific reason that, the type of quarters to which the applicant is eligible is too small and inadequate for his needs. He is eligible to get only Type-one quarter at Elamanur and it having only one living room and a small kitchen. In the said circumstances, he is residing



at Mohanur in a rented house. It is further averred in the O.A. that, there are three Sweeper-cum-Porters working in the same station and the Railway quarter 12-D at Elamanur proposed to be allotted to the applicant, has already allotted and occupied by one Shanmugham, who is working as Gate Keeper at Elamanur. While so, the 4th respondent has issued an order dated 12.12.2004(A1) granting allotment of one quarter to the applicant. It is also averred in the O.A. that, there are altogether 4 type-1 quarters at Elamanur and 3 quarters including 12-D is occupied by 2 Gate Keepers and one Sweeper-cum-Porter and the other quarter which is so far not allotted to any one, is lying in a dilapidated condition. The applicant has made a representation to the 4th respondent requesting to cancel the quarter allotted to him since the quarter referred to in Annexure A-1 was already occupied by one Gate Keeper and Type one quarter having only one living room and Kitchen, is totally insufficient to the applicant's needs. Since no action was taken by the 4th respondent the applicant has submitted another representation dated 15.12.2004 (A2) to the third respondent which is also not responded to. Apprehending that there is also a proposal to deny the HRA and to deduct the rent from his salary for the Railway Quarters said to have been allotted to the applicant, he has made another representation to the 3rd respondent on 25.1.2005, which is also not yet responded to and the 4th respondent is continuing to mark absent in the muster roll on the applicant's weekly rest day, he has filed this O.A. seeking the following main reliefs:

- i) To call for the records leading to Annexure A1 and quash the same.
 - ii) To Declare that action of the respondents in marking absent on applicant weekly rest day is arbitrary and illegal and to direct the respondents to grant all consequential benefits including the wages deducted from the applicant's salary.
2. Respondents have filed a detailed reply statement contending that there are different categories of Railway Employees and they are classified as (a) 'Continuous' (b)'Intensive' (c) Essentially intermittent and (d) Excluded. The post of Sweeper-cum-Porter at the Elamanur Railway Station is classified as Essentially Intermittent category. For this category of workers, statutory limit of Hours of work is 75 hours in a week. The rostering limit is 72 hours in a week in the case of Essentially Intermittent workers posted at roadside stations and provided with residential quarters within 0.5 Kms from

the place of duty and also in the case of Gateman C, Caretakers of Rest House etc. and Saloon Attendants. It has been provided that the rostered hours of duty for this group of workers posted at road side stations should be 72 hours in a week when Railway Quarters has been provided, and 60 hours in a week if the Railway Quarters is not provided. The duty of Sweeper-cum-Porter is connected with the working of trains. Hence, they are classified as Essential category. It is true that the applicant did not apply for Railway Quarters but that does not prevent the Railway Administration from allotting quarters when he is residing 50kms away from the Elamanur station and Quarters is vacant at Elamanur station. The utility of the Quarter should be maximum. Hence, when Railway Quarters becomes vacant, immediate action should be taken by the supervisory official concerned for allotment of the Quarters to the eligible Railway Servant. Since the applicant should be available at the Station on call, in public interest, the 4th respondent, who is the Supervisory official in relation to the applicant and empowered to allot the Railway Quarters, has issued the Annexure A-1 allotting the same to the applicant on 12.12.2004 after attending the repairs and changing tiles. But the number of the quarter was erroneously written as 12 D in the allotment letter and immediately the mistake was corrected as 2(two) instead of 12-D. The applicant was aware of the above correction. It is also submitted that, no essential staff whether on "OFF" duty or on weekly rest or on leave should leave their Headquarters, without the permission of their immediate supervisors. After the allotment of quarters, as the applicant did not attend the 72 hours duty in a week, but attended only 60 hours duty, the shortage of 12 hours duty was marked as absent by the 4th respondent correctly, and the wages were not paid for the days of absent. The HRA already granted to the applicant from 12.12.2004 has to be recovered from his salary. While allotting the railway quarters to the applicant, the 4th respondent has erroneously written the number of the Quarters as 12-D instead of 2 (two) as in Annexure A-1 allotment letter. This error was immediately noted by the 4th respondent and was corrected by him. The xerox copy of the corrected letter dated 12.12.2004 is produced herewith and marked as Annexure R-1. The applicant is aware of the above correction. There is nothing improper in the impugned action of the respondents and the O.A. does not deserve any merit.



3. The applicant has filed a rejoinder reiterating the same contentions in the O.A. and responding to the averments in the reply statement and stated that the Annexure R-1 produced by the respondents is a fabricated one and the applicant is not aware or not even informed about so called correction set to have made by the 4th respondent after the issuance of A-1. He further submitted that "Even assuming for arguments sake quarters are required to ^{be} compulsorily allotted to the employees, there are 2 employees working in the essential category and who was senior to the applicant yet to be allotted with a railway quarter.

4. Mr. Martin G.Thottan, learned counsel appeared for the applicant and Mrs.Sumathi Dandapani, learned counsel appeared for the respondents.

5. Heard the counsel on both sides. Counsel took me through various pleadings, material and evidence on record. Counsel for applicant argued that the action of the respondents in allotting the quarters which is already in occupation by another person, is arbitrary and without application of mind, especially when there is no request for allotment of such quarter from the applicant.

6. Counsel for respondents on the other hand persuasively argued that, in the best interest of the administration since the applicant has been categorized as Essentially Intermittent workers, his service must be at the call of the superiors and non-occupation of the quarters by the applicant results in not able to utilize his services by the Railways and therefore, as per the provisions of the allotment of quarters this was allotted to the applicant for better convenience of his reporting his duty though he did not apply for the same.


7. I have given due consideration to the arguments advanced by the learned counsel on both sides. The specific case of the applicant is that, he did not apply for the quarters which has been compelled by the respondents, and the 2nd limb of argument is that, the quarter 12-D which has been allotted to him was is in occupation of one Shri Shanmugham. When the quarter was allotted to the applicant on 12.12.2004, he has

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made a representation on 15.12.2004 (A2) specifically suggesting that, "I have already given my position in writing to the SM/EL. Now I am insisted to occupy a Railway Quarters No.EL/12-D which is already occupied by Shri K.Ondimuthu GK/EL. When I have not placed any demand for Railway Quarters, I am not knowing the reason under which I am being insisted to occupy the same. In Annexure A-3 dated 25.1.2005 he has reiterated the same contentions and submitted that " I really wonder how a Railway quarters which already occupied by an employee could be allotted to another one without vacating the same." In the rejoinder the applicant has reiterated the same contentions as raised in the O.A. and responded to the averments in the reply statement and stated that the Annexure R-1 produced by the respondents is a fabricated one and the applicant is not aware or not even informed about so called correction set to have made by the 4th respondent after the issuance of A-1. He further submitted that "Even assuming for arguments sake quarters are required to allot compulsorily to the employees, there are 2 employees working in the essential category and who was senior to the applicant yet to be allotted with a railway quarter.

8. This Court has not adjudicated that point. The simple question which is to be considered is whether A-1 allotment is made to the applicant when the quarter was already in occupation of another employee or not?

9. In the reply statement the respondents have admitted this fact and submitted that the allotment of quarters No.2(two) to the applicant was allotted on 12.12.2004. It was made available to the applicant after attending the repairs and changing tiles on 10.12.2004. But the number of the Quarter was erroneously written as 12 D in the allotment letter and immediately it was corrected as 2(two) and argued that this is within the knowledge of the applicant and the applicant was well aware of such correction. The averment that the applicant did not attend 72 hours duty, according to the applicant it is a consequence of non-allotment and non-occupation of quarters, which is not the prime dispute to be considered in this O.A. The respondents have also filed Annexure R-1 dated 12.12.2004, (the corrected version of Annexure A-1) and submitted that this correction was carried out when the applicant was received the

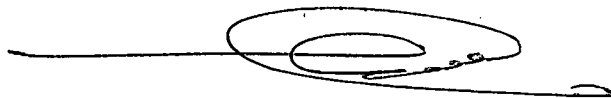


acknowledgement of the same. If the corrections were made by the respondents before receiving the acknowledgement of Annexure A-1 by the applicant, it should have been reflected in Annexure A-1 also, as seen in Annexure R-1, which is absent. On going through R-1, I find that there are scribbles/overwriting and written in between lines with dark ink and according to the applicant, this is only ~~be~~ an after-thought and a protection taken by the said officials to safe guard their interest. It appears that the said document seems to be very suspicious and corrections and alterations have been made in it. No one could arrive at a conclusion that those corrections were carried out even before the acknowledgement was received by the applicant in A-1.

10. Therefore, I am of the view that, the documents was tainted and cannot be acted upon. In the said circumstances, this Court accepts the contention of the applicant and finds that the allotment of quarter 12-D was only an indication given to the applicant and the same was allotted to him when it was in occupation of another employee. The other aspect is only consequential and therefore, I set aside and quash A-1 and direct the respondents to grant all consequential benefits flowing therefrom to the applicant and the applicant is at liberty to take up further issues, if any, relating to this aspect to the appropriate authority.

11. O.A. is allowed. In the circumstances, no order as to costs.

Dated the 7th day of September, 2005.



K.V.SACHIDANANDAN
JUDICIAL MEMBER