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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

T.A. No.1750/87

(Writ Petition No.2385/85)

Imtiaz Husain

Petitioner

versus

Union of India & ors.

Respondents./Opp. Parties.

Hon. Mr. Justice U.C.Srivastava, V.C.
Hon. Mr. K. Obayya, Admn. Member.

(Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant, a railway employee, who was allowed Quarter No. E/291(A), feeling aggrieved from the cancellation order to the effect that he was not entitled to that quarter because he belonged to lower category, approached this Tribunal. The applicant's father ^{who} was a railway employee (Driver Grade A) prior to his ^N retirement ^L on 31.5.84 and was in occupation of Railway quarter meant for Class III employees, moved an application on 10.9.84 for allotment of the quarter requesting that it may be allotted in favour ^{two} of his/son^s i.e. the applicant and Ishtiaq Husain. As per direction of Railway Board letter No. E-(9) 69 SRI-2 dated 22.1.79. It appears that on his application the General Manager(P) passed orders on 14.9.84 for allotting the same in the name of the petitioner and to Faizaz Husain who was in the service. of the Railway Administration from the year 1977 and at that time was officiating as Fireman Grade II in Gonda and his brother as Khalasi in Diesel Shed. Thereafter, the Divisional Railway Manager,

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vide his order dated 24.9.84 passed an order that with effect from 15.11.82 the allotment will be in favour of the applicant as well as his father but with effect from 31.5.84 it will be allotted in the name of the applicant. Consequently, vide order dated 29.11.84/3.12.84 the Divisional Railway Manager, directed that Type I residence may be allowed in the name of the applicant and the earlier order was being cancelled. The applicant, is aggrieved with this order.

2. The respondents contested the case and stated that the applicant was not entitled to this type of quarter which was a type III quarter, though his father was entitled for it because of his placement in the ^{higher} pay scale and the petitioner is entitled to type I quarter and this mistake was rectified by cancelling the order. In this connection a reference has been made to the Allotment rules, an extract of which has also been filed. The extract of the rules states that all the Group D staff are entitled to type I quarter but the said allotment which is based on Railway Board's letter dated 8.6.1975 also provides that Class 'D' Staff quarters can be allotted to Class 'C' Railway Servants, only when there are no class 'D' Railway servants at the station to occupy them and no class 'C' staff quarters are available. The letter further provided that Class III quarters under occupation of Class ~~III~~ ^I II officers should ^{be} gradually be restored for allotment to class III staff only. The retention of Class III quarters by employees on promotion to Class II should be discouraged. It appears that prior to passing of the said cancellation order some letter was written by the Chief Personnel Officer to the D.R.M. on 14.9.84 and in pursuance of the said letter a reply

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was sent to him in which it was ^{stated} ~~said~~ that the applicant was only Engine Cleaner and he was not entitled to Type III Quarter and the fact was brought to the notice of the General Manager. This is clear that after cancellation, this order was issued, may be without waiting for the reply from the General Manager who passed earlier order in exercise of his power as General Manager. It is to be noticed that later on the applicant was regularly promoted to Fireman Grade III vide order dated 29.4.86. Apparently, the applicant was not entitled to type III quarter but the Railway Administration, in its competence and wisdom, decided to allot the house jointly to the applicant and his father, may be by way of concession or in exercise of any supervisory power and that is why much after the retirement of the father this joint allotment was given and the order of allotment passed. In case the allotment order was cancelled, it should have been cancelled by the General Manager, that too within certain circumstances. Before cancellation of allotment order, the applicant too, in the circumstances he was allotted the quarter, has a right for opportunity of hearing, which should have been given to him, but no opportunity of hearing was given. The order of cancellation should not stand. We make ^{it} clear that it is for the General Manager, who has allotted the quarter to consider as to whether the allotment order is to be cancelled or the applicant to be shifted to any other quarter. This should be done after hearing the applicant.

With the above observation the cancellation order is quashed. The application is disposed as above.

A.M.

V.C.

Lucknow Dated: 5.8.91