

NEW BOMBAY BENCH

198

TXAxxNo.

DATE OF DECISION 18.10.1989

Shri Machindra B. Jagtap & Another Petitioners

Mr. G. D. Samant

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.Y. Priolkar, Member (A)

The Hon'ble Mr. . .

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

ORIGINAL APPLICATION No.883 OF 1988.

- 1) Shri Machindra B. Jagtap
2) Shri Mahamad Esaq Patel
working as Driver 'A' in
Loco Foreman, Daund,
Central Railway,
Dist: Pune - 413 801.

... Applicants

V/s.

- 1) Union of India, through
Respondent No.2.
2) The General Manager,
Central Railway,
Bombay V.T.,
Bombay - 400 001.
3) Divisional Railway Manager,
Central Railway,
Solapur.

... Respondents

Coram: Hon'ble Member(A), Shri M.Y. Priolkar

Appearances:

Mr.G.D.Samant, Advocate
for the applicants.

ORAL JUDGMENT:

Dated: 18.10.1989.

{Per: Shri M.Y.Priolkar, Member(A)}

This application is filed by two Drivers of the Central Railway working at Daund, District Pune, for themselves and on behalf of 27 other Railway employees working at the same place. All of them are stated to have been allotted railway quarters with attached outhouses. They have the grievance that from the year 1987-88, the respondents have started the practice of allotting these outhouses, which are claimed to have been already allotted to and are in occupation of the applicants, to other class IV/Class III employees as independent units. Since repeated representations in this regard of the applicants have not been replied to by the respondents, the applicants have approached this Tribunal on

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16.11.1988 praying for a declaration that the policy of the respondents to allot outhouses attached to main quarters to other Class IV/III staff is bad in law, null and void and also for directing the respondents not to give effect to orders issued so far allotting such outhouses to other employees, on the ground that the outhouses are already occupied or used by the applicants for their servants, or as kitchens, that there is no electricity or separate water supply or sanitary arrangements to these outhouses and that this new policy is not conducive to healthy working conditions.

2. The respondents have filed their written reply opposing the application. According to the respondents, the Railway Board issues orders from time to time specifying the entitlement of the various categories of employees for railway accommodation. According to Railway Board's letter dtd. 28.1.1966 in which revised standards of accommodation to be allotted to different classes of employees were specified and also Railway Board's letter dtd. 25.9.1987 in which these entitlements have been further revised, the subordinate staff, which term includes the applicants who are all Class III (Group 'C') employees, are not entitled to allotment of outhouses. The respondents have also attached a detailed statement (Ex. 'D' to the written reply) showing the exact plinth area of the main quarter which has been allotted to each of these 29 employees. As against the entitlement of maximum 83.60 sq.mtrs., it is observed from this statement that out of these 29 employees, only two have main quarters with plinth area in accordance with their entitlement, viz. 77.76 sq.mtrs which is within the maximum permissible entitlement of 83.60 sq.mtrs. All others have main quarters with plinth area far in excess of the maximum entitlement and eight of them are having, in fact, an area in the main quarter

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exceeding even twice the maximum entitlement. When it is recognised that there is acute housing shortage in most urban areas and Government employees are generally not able to secure private accommodation of even half of their entitlement within the house rent allowance, I think it would be inequitable to have a system in which some of the employees are allotted quarters far in excess of their entitlement whereas a large majority have to fend for themselves within their meagre house rent allowance. On grounds of equity, therefore, I do not think that the applicants can justifiably demand outhouses in addition to main quarters, which are themselves far in excess of their maximum entitlements.

3. Mr.G.D.Samant, learned advocate for the applicants, urged that apart from equity, the action of the respondents in allotting the outhouses to other class IV/III employees is illegal, since the original allottees, who are the present applicants continued to be in occupation of these outhouses and they could be only evicted after following the procedure prescribed under Public/^{Premises} (Eviction of Unauthorised Occupants) Act, 1971. The respondents, however, have categorically denied that these outhouses were at any time earlier allotted to the present applicants or that they are in occupation of the applicants. In fact, the respondents have averred in their written reply that a survey carried out by them on 4.2.1989 of the outhouses in question showed that they are fully vacant. They have also denied the applicants' contention that allotment of such outhouses is a new practice started recently. They have drawn attention to the fact that some of the railway employees at Daund, similarly situated as the present applicants, had filed Civil Suit No.1247/72 in the Court of Civil Judge, Senior Division, Pune challenging the allotment of outhouses made under order dated 14.9.1970 as

illegal, null and void on the ground that the outhouses were part of their quarters and they could not be allotted to any other persons. This suit is stated to have been decided in favour of the Railways by the judgment of the Civil Judge Senior Division dtd. 8.8.1978 in which it was held that the plaintiffs were not entitled to the outhouses as a right and that the orders of allotment were not illegal or ultravires. The present case before the Tribunal is also based on the same grounds. The applicants' advocate was also not able to show any allotment order or any rules or instructions or guidelines issued by the Railways in support of his contention that outhouses should always be treated as part of the main quarter. In view of this court case and the specific findings of the learned Civil Judge, Senior Division, Pune, the applicants' contention that this is a new policy started by Railways and that the respondents were not empowered to allot the outhouses to other employees has to be negatived. While not denying the existence of this judgment and other facts referred to in the respondents written reply, Mr. Samant merely stated that the present applicants were not parties in that Court case.

4. Mr. Samant's next contention was that these outhouses lack basic amenities like electricity, water supply and sanitation etc. and this is bound to cause friction among the residents of outhouses and residents of main quarters like the applicants. According to the respondents, however, electricity supply is being provided to these outhouses depending upon availability of funds. They have also stated that there are separate water taps and toilet blocks for the occupants of these outhouses and this sort of common facility is the normal feature of Govt. housing for class IV employees. They have also produced sketches and drawings showing the location of the existing main quarters and outhouses, from which it is clear that the outhouses have separate entrance and can be


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occupied as independent dwelling units. While, no doubt, having other families in the outhouses, if some of them are lacking in civic sense, could cause some inconvenience to the occupants of the main quarters, this can hardly be adequate justification to demand that either the outhouses should be allotted to the occupants of the main quarters themselves or kept vacant.

5. On the basis of the foregoing discussions, neither ~~any~~^{on} grounds of equity or of legality, I see any merit in this application which is, accordingly, dismissed but with no order as to costs. The interim order dated 8.2.1989 of the Tribunal for maintaining status quo as on that date stands vacated.


(M.Y. PRIOLKAR)
MEMBER(A)

After this judgment was dictated, Mr. Samant requested that operation of this judgment be stayed for a period of 4 weeks from today in order to enable the applicants to appeal to the Supreme Court. I see no reason^{why} ~~why~~ this request cannot be granted. Accordingly, this judgment may be implemented on or after 18th November, 1989 unless the applicants, meanwhile, produce an order to the contrary from the Supreme Court.


(M.Y. PRIOLKAR)
MEMBER(A)