

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 168/2000

Date of Decision : 8th January 2001

R.Kaura _____ Applicant.

Shri S.S.Karkera _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents.

Shri V.D.Vadhavkar _____ Advocate for the
Respondents.

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

S.L.JAIN
(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO.168/2000.

Dated this the 8th day of January 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Rajesh Kaura,
Enquiry-cum-Reservation Clerk,
C/o. S.S.Karkera,
Advocate High Court,
New B.D.D.No.1/4,
B.J.Devarukhakar Road,
Dadar (East), Mumbai.

... Applicant

By Advocate Shri S.S.Karkera

V/S.

1. The Union of India,
through the General Manager,
Western Railway,
Churchgate, Mumbai.
2. The Divisional Railway Manager,
Western Railway,
Mumbai Central, Mumbai.

... Respondents

By Advocate Shri V.D.Vadhavkar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act,1985 seeking the relief for direction to the respondents to allot the quarter as per his status.

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2. The applicant was appointed as Substitute Enquiry-cum-Reservation Clerk w.e.f. 1.4.1981 and granted temporary status w.e.f. 1.4.1983 vide Annexure-'A'. The applicant's father had been allotted quarter by the Railways, Quarter No. 25 T-B at Dadar Railway Staff Colony as he was working as Guard Gr.A, CCG under the respondents. The applicant was residing with him and did not claim any HRA from the respondents. The respondents terminated the services of the applicant on 7.3.1986. The applicant challenged the said action in OA.NO.291/87 and the Tribunal was pleased to quash the removal order on 1.10.1991 vide Ex.'B'. As per the direction of the Tribunal, the applicant preferred an appeal to the then ADRM (O) BCT Shri Pankaj Malavia. The appellate authority was pleased to issue an order for reinstatement of the applicant and in compliance of the said order, the applicant resumed the duties as ECRC. The applicant's father was transferred to Kota Division in the year 1985 but the applicant along with his mother and family members were residing in the quarter allotted to his father. No quarter was allotted to the applicant's father at Kota Division and family remained at Mumbai. The respondents initiated eviction proceedings against his father and ultimately the quarter was got vacated on 29.1.1990 and damage rent was charged.

3. The applicant claims that as he was residing with his father, also eligible for transfer of the said quarter in his name on the basis of father to son, i.e. out of turn allotment. The respondents failed to pass any order in this respect. After reinstatement in service, he preferred representation to the

respondents on 15.7.1994 to regularise the quarter and/or allot any other Type-II Railway Quarter on the basis of father to son vide Ex.'C'. He further preferred representation to the respondents on 9.12.1994 & 22.2.1995 vide Ex.'D', and vide letter dated 1.11.1996 Ex.'E'. The respondents issued a letter bearing No. E/QC/58/17 OOT dated 2.8.1999 addressing to the SS-BCT requesting therein to furnish the documents in order to regularise the case of the applicant for out of turn allotment of Railway Quarter (Ex.'F'). He further submitted representation vide letter dated 2.8.1999 on 13.8.1999 in detail along with the copy of pay sheets (Ex.'G'). Hence, this OA. for the above said relief.

4. The respondents have resisted the claim of the applicant on the ground that the applicant who is a Substitute ECRC and not regular employee hence not entitled for allotment of quarter to him on the basis of father to son-out of turn allotment. As the father of the applicant was transferred in 1985 to Kota, he cannot claim allotment of the quarter on the principle of father to son - out of turn allotment, particularly, when after eviction proceedings the said quarter was ^{not} vacated. The Tribunal has no jurisdiction in such matters and the claim is barred by time, as father of the applicant was retired on 31.1.1990. Hence prayed for dismissal of the OA. along with the cost.

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5. This is an application based on inaction of the respondents. The prayer of the applicant is for a direction to the respondents to allot the quarter as per his status. Certainly, this Tribunal cannot direct the respondents for allotment of the quarter to the applicant but only a direction for consideration of the grievance of the applicant can be ordered. Hence, keeping in view the prayer, only a direction for consideration of the applicant's grievance can be ordered. In such circumstances, it is not necessary to examine the merit of the claim of the applicant. It is left open for both the parties after the decision of the respondents in this matter, if an occasion arise therefor.

6. The regularisation of the applicant which has been filed during the course of the arguments can be examined by the respondents at the time of consideration of the applicant's grievance as per law.

7. The learned counsel for the applicant relied on OA.No.314/90, Mrs.Prema Paul & Ors. vs. Union of India & Ors. decided by this Bench on 12.2.1992 and argued that as now the applicant has been regularised, he is entitled for the quarter. On the other hand, the learned counsel for the respondents argued on the basis of 1995 (2) ATJ 161, Liyakat Ali vs. Union of India that it is the concession by the respondents, applicant has no right for allotment on the principle of father to son, i.e. out of turn allotment. As stated earlier, it is a consideration on merit which is left for decision by the respondents.

8. The Tribunal can grant a relief which is prayed for or a minor relief, if the applicant is not entitled to the relief claimed for but a relief which is not claimed for, which is a major relief than the claimed for cannot be provided to the applicant, in case of in action by the respondents. Only proper direction which can be issued is to decide the matter within a reasonable time.

9. In the result, the OA. is disposed of with the direction that respondents are directed to decide the grievance of the applicant as claimed in the OA. within a period not later than two months from the date of receipt of a copy of this order. No order as to costs.

S.L.JAIN
(S.L.JAIN)
MEMBER (J)

mrj.