

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 390/2001

Date of Decision: 09.10.2001

Smt. Sheela Dallyvi.

Applicant

Shri R.G. Walia.

Advocate for Applicant

Versus

Union of India & 2others

... Respondents

Shri Suresh Kumar.

Advocate for Respondents

CORAM: HON'BLE SMT. SHANTA SHAstry. ... MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library

*Shanta S*  
(SMT. SHANTA SHAstry)  
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 390/2001

THIS THE 09 TH DAY OF OCTOBER, 2001

CORAM: SMT. SHANTA SHAstry

MEMBER (A)

Sheela Dalvi,  
working as Peon in the  
office of Sr. DAO, BCT,  
Western Railway,  
Mumbai.

.. Applicant

By Advocate Shri R.G. Walia.

Versus

1. Union of India, through  
General manager,  
Headquarter Office,  
Western Railway, Churchgate,  
Mumbai-400 020.

2. Divisional Railwlay Manager,  
DRM's Office, Bombay Central,  
Mumbai-400 008.

3. Sr. DAO,  
Western Railway,  
Bombay Central,  
Mumbai-400 008.

... Respondents

By Advocate Shri Suresh Kumar.

O R D E R

The applicant is working as a peon in the Accounts Department of Western Railway. She was appointed on compassionate grounds. According to the applicant, she was allotted a Railway quarter on compassionate grounds on out of turn basis as she did not have any one to take care of her and her children are minor. The applicant occupied the building No.121, room No.25 at Mumbai Central allotted vide 22.4.98. The applicant submits that she has been threatened <sup>of</sup> <sub>by</sub> forcible

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eviction from the said quarter on the ground that the quarter has not been allotted to her. She has stated that the Inspector of Works comes daily with staff and abuses her and threatens that if she did not vacate immediately he would get her luggage and belongings thrown out. The applicant submits that the Inspector of Works had given her a final warning <sup>to vacate the quarter by</sup> latest by 31st May, 2001. According to the applicant, there seems to be inter departmental dispute between the officers of the applicant's department and others, because of which she is being harassed. No notice has been given to her to vacate the quarter. The applicant has prayed for restraining the respondents from evicting the applicant from the quarter already allotted to her.

2. The applicant had also prayed for interim orders. Accordingly, the respondents were directed to maintain the statusquo on 01.6.2001 with respect to the quarter No.121, building No.25, Cement Chal, Bombay Central, Mumbai-8. The interim order was continued from time to time.

3. The respondents submit that no quarter was allotted as claimed by the applicant. She was appointed in the Railways on 8.4.96 as a peon in the office of FA & CAO, Western Railway, Churchgate. The applicant was transferred to Mumbai Division and posted in the office of Senior DAO, BCT on 19.2.97. the applicant had applied for allotment of railway quarter to FA & CAO,



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Churchgate on 28.7.97 for allotment of quarter from FA & CAO pool. As on 2.7.2001 the applicant's waiting list number is 41 in the pool belonging to FA & CAO, Churchgate. The respondents submit that in the railways, the quarters are allotted by the Housing Committee, which consists of representative of both Union and Railways, Incharge of the pool and other officers. When the quarter is allotted by the Housing Committee, the same is circulated to various departments including the union and the SC/ST association. The allotment letter is signed by the competent authority on the basis of the recommendation by the Housing Committee. The respondents have produced a copy of allotment order dated 11.6.98 to show how the quarters are allotted and by whom the quarters allotted. The same is at Annexure R2, page 17 of the written statement of the respondents. It is further submitted that in the Western Railway accounts pool only the FA & CAO is authorised to allot the quarters to the employees who had made an application and whose name is on the waiting list. The quarters are allotted on the basis of seniority. According to the official records maintained by the respondents, no quarter is shown as having been allotted to the applicant and nor was she eligible to be allotted the quarter in the year 1998 on the basis of the waiting list. The respondents have totally denied that the applicant was allotted any quarter on compassionate grounds or on out of turn basis. Initially the applicant had produced a letter at page 8

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which was not legible at all. The applicant was directed to furnish a legible copy. According to the respondents the letter produced by the applicant cannot be said to be an allotment order. Such allotment orders are not issued by the department nor by the Senior DAO office, who is the competent authority to allot the quarter. It is not allotted by the Housing Committee either. This particular quarter now being occupied by the applicant was allotted to one Shri Kantilal Solanki, P/man working in the SS DCT, which was vacated by him on 17.12.1997. The applicant has obviously occupied this quarter without any authority. The letter attached by the applicant as Exhibit "A" is not issued by the authority mentioned there nor such letter is available in the official records. Whoever signed the letter on behalf of the DAO is not the competent person to sign the same or to allot the quarter. It is further submitted that there is no post of Inspector of Works at present existing in the Railway. Therefore, the averment made by the applicant that the Inspector of Works gave her a warning is not at all correct. It was merely to obtain the say order from this Tribunal to show the urgency in the matter. The applicant has occupied the quarter forcibly.

4. The learned counsel for the applicant has been harping on the point that the quarter has been allotted to the applicant as is evident from the letter of allotment. Further, the learned counsel for the

applicant has taken objection to the affidavit filed by one Shri J.P. Sagar working in the office of the Senior Electrical Divisional Engineer (P), Mumbai Division, Western Railway, wherein Shri Sagar has stated since there was no allotment in favour of the applicant and the letter does not have the reference of DRM, he made an endorsement on the same letter and returned the letter to the bearer of the letter. The quarter being occupied by the applicant, belongs to division pool. It is, however, stated that his office only gives electrical connection after the concerned Inspector of Works handed over the quarter. His office did not issue any electrical connection for the quarter. The learned counsel for the respondents submits that the applicant has forcibly occupied the quarter without proper allotment order. None of the letters produced by the applicant has been issued from the office of the Senior DAO. The applicant was asked to intimate the name of the office, who had issued the aforesaid letter or who had signed the letter. The applicant is not able to name the person. The applicant submits that it is an inter departmental dispute and the applicant should not be unnecessarily troubled for that. The respondents have also submitted that the applicant is being paid HRA and the quarter claimed to have <sup>been</sup> allotted to her is not even in the accounts pool. In short, according to the respondents, the applicant has never been allotted ~~any~~<sup>any</sup> quarter and she is staying there unauthorisedly. Therefore, she should vacate the quarter.

5. The applicant has also raised the point that if she had been staying unauthorisedly in the quarter, why the respondents had not initiated action under Public Premises (Eviction of Unauthorised Occupation) Act, 1971, she has not received any notice so far. The respondents said initially that this is not a case covered for action under the PP Act. Later on the respondents stated that no action had been taken.

6. I have heard the learned counsel for both the parties. In my considered view, it is very clear that the applicant was not allotted the quarter. Mere production of two letters (1) to show that she has been allotted the quarter and (2) the other to show that electric connection should be given to the quarter are not really in the format in which they should be. As already explained by the respondents, there is a specific procedure for allotment and even the format of allotment letter is prescribed, as can be seen from Exhibit R2 page 17 of the written statement of respondents. I am therefore, not ready to accept that the applicant was allotted ~~with~~ the quarter she is now occupying, by the concerned authorities formally or officially. There appears to be some mischief. The applicant has not been able to produce any ~~such~~ <sup>4</sup> authenticated allotment order. Therefore, it has to be held that the applicant is in unauthorised possession of the quarter. The respondents are to be blamed for

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having allowed the applicant to continue in the railway quarters without any formal allotment order. As the applicant is in waiting list, she cannot continue in the said quarter. It is for the respondents to take suitable action. As far as the OA is concerned, I have to hold that the applicant has no claim over this quarter and she is residing there unauthorisedly. Therefore, the prayer to restrain the respondents from evicting her from the quarter cannot be allowed. The OA is, therefore, dismissed. No costs.

*Shanta S*

(SMT. SHANTA SHAstry)  
MEMBER (A)

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