

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED] [REDACTED]
NEW BOMBAY BENCH

O.A. No. 489/90
T.A. No.

198

DATE OF DECISION 31.1.1992

MR. MOHAMED LAIQUE and another Petitioner

Mr.G.R.Menghani, Adv. Advocate for the Petitioners)

Versus

The Union of India and ors. Respondent

Mr.N.K.Srinivasan, Adv. 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? *Yes*
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*

MGIPRRND-12 CAT/86-3-12-86-15,000

[Signature]
(M.Y.PRIOLKAR)
MEMBER (A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO. 489/90

MR. Mohmed Laique,
Diesel Chargeman (Retired)
Western Railway, residing at
Rly. quarter No.207/4,
Bandra (W), Bombay - 400050
and another

.... Applicant

V/s

The Union of India
and another

..... Respondents

CORAM : HON'BLE MEMBER MR.M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Mr.G.R.Menghani, Adv.
for the applicant.

Mr.N.K.Srinivasan, Adv.
for the respondents.

Dt. 31.1.1992

ORAL JUDGEMENT
(PER : M.Y.PRIOLKAR, M/A)

This application has been filed by two employees, of Railway, one retired and the other in service, who are father and son, seeking a direction to the respondents for transferring the quarter originally allotted to applicant No.1, who has since retired, to applicant No.2 and also for payment of gratuity and commuted value of pension to applicant No.1 with interest thereon from the date of his retirement, and also for issue of railway passes.

2. In the FULL BENCH JUDGMENT in the case of WAZRI CHAND V. UNION OF INDIA & OTHERS" pg.287 of FULL BENCH JUDGEMENT of CAT 1989-91" dated 25.10.1990 (published in Bahari Brothers, Delhi) it has been held that withholding of entire amount of gratuity of a retired Railway servant so long as he does not vacate the railway quarter is legally impermissible and disallowing one set of post-retirement passes for every month of unauthorised retention of railway quarter is also unwarranted. The respondents are accordingly, directed to make payment of gratuity due to the applicant No.1 after withholding the

usual amount of Rs.1000/- therefrom and also issue to him post retirement passes as per his entitlement. Interest on gratuity should also be paid. This will be, as suggested by the respondents counsel, in accordance with the Government orders which prescribe the period of delay after which interest is applicable and also the rate at which such interest is payable. The respondents should also pay the commuted value of pension, if not already paid. Since, admittedly, the entire amount of pension is being paid now to the applicant, he will not be entitled to any interest on such commuted value of pension.

3. Regarding, the regularisation of the quarter, the respondents have opposed the applicant's prayer on the ground, that the applicant is still a temporary employee and according to the Railway Board circular dated 11.4.1983, the concession of out of turn allotment can be extended to a dependent relative only if he is in regular service and fulfils the other conditions. It is not in dispute that the applicant No.2 is still a temporary employee. While the applicant No.1 retired on 28.2.1985, the applicant No.2 was initially appointed as a casual worker on 24.10.1983 and acquired temporary status on 24.2.1984. In the case of 'VITHAL RAO A.KALE V.UNION OF INDIA AND ORS" (OA 271/86 not reported), the ~~Bench of~~ ^{Bench of} New Bombay Tribunal has held that when the Railway Establishment Manual says that employees with temporary status will be eligible to all facilities available to railway servants, it is difficult to exclude them from the benefits relating to quarters which are available to regular employees. Regarding the respondent's contention in that case that the Railway Board's circular dated 29.8.1986 clarified that the order contained in Board's letter of 19.12.1981 is a special dispensation in favour of the eligible wards of retired employee, the judgement also

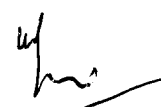
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observes that since the applicant in that case had retired from Railway service prior to issue of this clarification in the year 1986, it should not be made applicable in his case. In the instant case before me, the applicant has also retired in the year 1985 i.e. prior to Railway Board's clarification dated 29.8.1986. This clarification should not, therefore, be made applicable in the present case as already held in the judgement on the New Bombay Bench VITHAL RAO KALE'S CASE (supra).

5. The respondents has brought to my notice, the judgement dated 19.6.1987, again of the New Bombay Bench, in the case of S.M.RAMADE V.UNION OF INDIA AND ANOTHER, in which a contrary view has been taken viz. only employees in regular service are entitled to the benefits of transfer of quarters. However, as already stated above, a different view which ^{is} in favour of the applicant has been taken in a subsequent judgement of this Bench and it is stated that the SLP filed by the respondents against that judgement has also been rejected by the Supreme Court.

6. In the circumstances, I agree respectfully with the view taken in our earlier judgement dated 26.11.1987 in the case of VITHAL RAO KALE V. UNION OF INDIA AND ANOTHER (supra) and accordingly direct that the applicant No.2 should be allotted a quarter of a category to which he is entitled. Till such quarter is allotted, he may be allowed to continue in the present quarter which he has been sharing for and with his father. Rent shall be payable in accordance with the relevant rules.

7. With these directions, this application is disposed of finally with no order as to costs.


(M.Y.PRIOLKAR)
MEMBER (A)