

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 122/92

198

T.A. No.

DATE OF DECISION 27.4.1992

SHRI RAJEEV KUMAR SAXENA Petitioner

SHRI S.M.DHARAP Advocate for the Petitioner(s)

Versus

THE General Manager, WR, Churchgate Respondent
Bombay and other.

Shri N.K.Srinivasan 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*

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO. 122/92

Shri Rajeev Kumar Saxena,
Asstt. Driver (Electric) W.R.
C/o Divisional Secretary
32/A Chapra Building
1st floor, R.K. Vaidya Marg;
Near Plaza Cinema;
Dadar (W), Bombay - 400028

..Applicant

V/s

The General Manager,
Western Railway
Churchgate
Bombay - 400020.

Shri A.K. Sharma
Asstt. Driver
Railway Quarters No. 132/8
Type -II
Santacruz (W), Bombay

..Respondents

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

APPEARANCE:

Shri S.M. Dharap
Adv. for the applicant

Shri N.K. Srinivasan,
Counsel for the respondents

ORAL JUDGEMAL

27TH APR 1992

(PER : M.Y. PRIOLKAR, MEMBER(A))

The grievance of the applicant in this case is that a junior to the applicant in the waiting list has been allotted a Type-II quarter in preference to the applicant in contravention of the Railway Board instructions on the subject.

Both the applicant as well as his junior viz, Respondent No.2 were already in occupation of Type-I quarters and were waiting for change from Type-I to Type-II quarters. The position in the waiting list for Type-II of the applicant being at No.9 and the Respondent No.2 at No.14. One Type-II

quarter was, however, allotted to Respondent No.2 in preference to the applicant, though higher in the waiting list, purportedly on the recommendation of the Commanding officer, Territorial Army Unit.

Learned counsel for the applicant stated that this allotment is patently against the instructions of the Railway Board dated 18.11.1985 under which a clarification given by the Railway Board was circulated that Railway Territorial Army personnel who have been allotted residential quarters on their turn in waiting list would not be considered for purposes of allotment of quarters against Territorial Army quota. In fact, by letter dated 9.7.1990, Traction Forman (R) BAMY Western Railway had informed both the applicant as well as Respondent No.2 that the case of both of them for allotment of Type-II Railway Quarters from Territorial Army quota were put up before the Housing Committee, but as per the Railway Board's clarification the Housing Committee had decided that since they were already in occupation of Type-I Railway Quarters, their cases will not fall under the category of unhoused personnel and thus they were not eligible for Type-II railway quarters on Territorial Army quota.

Learned counsel for the respondents could not give any satisfactory explanation as to how this allotment has been made in the face of such instructions from the Railway Board except to say that the allotment was made because it was recommended by the Commanding Officer, Territorial Army Unit. He also stated that the interpretation of un-housed Territorial Army personnel should be those who are not housed in quarters of their entitlement.

It is difficult for me to accept this contention of the respondents since, when the decision of the Housing Committee was communicated, it was on the basis that the Territorial Army quota was not available for employees who had been given some accommodation, evidently either of their entitled category or otherwise.

In the circumstances the applicant succeeds. Respondents are directed to allot a type-II quarter to the applicant within one month from the date of communication of this order, if necessary, by cancelling the allotment which is irregularly made to the Respondent No.2. No order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

C.P. 43/93 in
Original Application No. 122/92

Shri Rajeev Kumar Saxena
V/s.

... Applicant.

The General Manager,
Western Railway,
Churchgate
Bombay.

Shri A.K. Sharma,
Assistant Driver
Railway Quarters No. 132/8
Type II, Santa Cruz (West)
Bombay.

... Respondents.

CORAM: Hon'ble Shri V.D. Deshmukh, Member (J)

Appearance:

Shri S.M. Dharap, counsel
for the applicant.

Shri N.K. Srinivasan, counsel
for the respondents.

Tribunal's order.

Dated: 18.6.93

This Contempt Petition was filed by the applicant complaining that the order passed by this Tribunal on 26.4.92 was not properly complied with, although the quarter at Bassein Road was allotted to the applicant.

On 4.6.93 it was directed that the concerned officer, Assistant Personal Officer and the dealing clerk shall remain present on next date i.e. on 11.6.93, ~~Although~~ ^{Said} the persons were present on 11.6.93 the C.P. was adjourned to today.

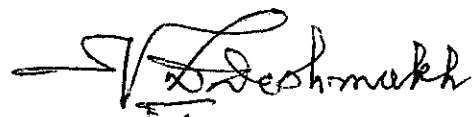
Mr. Dharap states that the applicant has now been allotted a quarter at Bandra under the order dated 16.6.93 which the applicant has received today. Copy of the order is also shown to the Tribunal today. Copy of the order be placed on record.

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In view of the allotment order and on the instructions of the applicant who is present in person, Shri Dharap counsel for the applicant ^{requests for leave} ~~intends to~~ withdraw the Contempt Petition. I am also inclined to grant permission especially ^{as} the respondents had tendered an unconditional and unqualified apology in their reply dated 2.6.93 and the officer and the clerk who were directed to present on the date and had attended the Tribunal as per the directions.

The Contempt Petition is allowed to be withdrawn and is disposed of accordingly. There shall be no order as to costs.


(V.D. BESHMUKH)
MEMBER (J)

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