

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 804/92

Transfer Application No:

DATE OF DECISION: 11.3.1994

Shri K. Unnikrishnan Nair & 2 Oth. Petitioner

Shri G. S. Walia Advocate for the Petitioners

Versus

Union of India & Others Respondent

Shri N. K. Srinivasan Advocate for the Respondent(s)

CORAM : Hon'ble Shri M. R. Kolhatkar, Member (A)

The Hon'ble Shri M. R. Kolhatkar, Member (A)

The Hon'ble Shri

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

M. R. Kolhatkar
(M. R. Kolhatkar)
Member (A)

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. No. 804/92

Shri K. Unnikrishnan Nair & 2 Others. Applicant

Vs.

Union of India, through
General Manager,
Western Railway, HQ Office,
Churchgate,
Bombay - 400 020.

Divisional Railway Manager,
Bombay Central, Western Railway,
Bombay - 400 008.

Senior Divisional Electrical
Engineer (RS),
Car Shed, Bombay Central,
Bombay - 400 008.

Deputy Chief Electrical Engineer (POH)
Mahalaxmi, Western Railway,
Bombay.

CORAM : Hon'ble Shri M. R. Kolhatkar, Member (A)

Appearance :

Shri G. S. Walia,
counsel for the applicant.

Shri N.K. Srinivasan
counsel for the respondents.

ORAL JUDGMENT

Date : 11.3.1994

(Per : Hon'ble Shri M. R. Kolhatkar, Member (A))

The undisputed facts in this case are as below.

The applicants Nos., 1,2, and 3 are Group C employees of Western Railway, BCT Division working as Fitters in car shed. Applicant No. 3 had applied for railway quarter on 27.8.1977. It is the contention of the applicants that the applicant Nos. 1 and 2 had also applied for railway quarters on 13.1.1976 and 10.8.1977 which is denied by the respondents. The relief claimed by the applicants is that their names should be included and interpolated in the list of registration for allotment of railway quarters at its appropriate place according to

the date of registration and to allot the railway quarters to them in accordance with the list so formed as per rules.

2. According to the respondents there is proof of applicant No. 3 having made an application in the records and also a copy of the forwarding letter which fact was noticed after a welfare inspector was deputed to enquire into the representation made by the Applicants. There is, however, no proof regarding Applicant No. 1 and 2 having filed their applications/reminder and the Respondents doubt the genuineness of the copies filed. So far as applicant No. 3 is concerned respondents state that the matter would be considered and decision taken.

3. Applicants have produced a list of registration for allotment of Railway quarter for class IV employees exh. G in which their names do not figure. It has also been pointed out by the applicants that this list of registration *prima facie* does not appear to be proper inasmuch as the list shows at Sr. No. 52 one R.S. Tripathi Khalashi whose date of registration is 16.10.1967 and this is followed by Sr. No. 53 Punjahari S. Sangale Khalashi whose date of registration is shown as 29.11.1976. Thus there is a gap of nine years. It is difficult to believe either that there was no application during this period or that all of them have been disposed of. Moreover although it is conceded by the respondents that there is record of

applicant No. 3 viz. Shri T. Satyadas having applied with a proper forwarding letter, there is no entry of his name in the Annexure G.

4. It is contended by the respondents that the application is hopelessly time barred and the application has been filed with a view to create false record and get the relief of an earlier date of registration as there is a huge unsatisfied demand for allotment of railway quarters. According to the ~~respondents~~ as on 11.3.1983 a waiting list of staff who have registered their names for allotment of type II and Type I quarters was published and the applicants have failed to make a representation in time viz. by 28.3.1983.

5. We notice that the list of Registration produced by the applicants at Exhibit G is an enclosure to the circular dated 11.3.1983 produced by the respondents during the course of arguments. The genuineness of this list cannot therefore be doubted. It may be that the list was in fact not as well publicised as was intended and that all the concerned Group 'C' and Group 'D' ^{had} employees of the Railways might not have ^{had} knowledge of the same but that is a different matter. On 20.12.1993 the applicants had filed an MP for discovery by way of interrogation and this Tribunal had directed the respondents to file answers to the interrogatory within four weeks. Till to date, there is no answer to these interrogatories. According to the counsel for the respondents the officers in question who could have

forwarded the applications in 1977 might not be in service and it is difficult for the Railways to verify the signatures. The fact remains that the Railways have not chosen to file any reply in response to the interrogatories which requires us to draw an adverse inference against them. The applicant No. 1 has filed a photocopy of his application dated 13.1.1976 on which the stamp of shop Superintendent Inspection Bombay Central is to be seen clearly. Exhibit C is a typed copy of the application dated 10.8.1977 filed by the applicant No. 2 of which the photo copy has been produced by the applicant during the course of the arguments.

6. In view of this discussion we have no hesitation in finding that applicants Nos. 1 and 2 had in fact applied for the quarters on the dates indicated by them and that the list of registration of allotment of railway quarters which was published by the respondents on 11.3.1983 in which the applicant No. 3 who admittedly applied for the quarter also does not find place is not conclusive of their not having applied.

7. We note that on 14.8.1992 this Tribunal had given interim relief to the effect that pending disposal of this application, if a Type I quarter is allotted to any persons junior to the applicants, it would be subject to the final outcome of this case. In view of this, we dispose of this application by passing the following order:

O R D E R

Respondent No. 2 is directed to include and interpolate the names of applicants Nos. 1,2, and 3 in the list of registration for allotment of railway quarters on the footing that they had applied for the appropriate class of quarters on 13.1.1976; 10.8.1977 and 27.8.1977 respectively and allot the railway quarters to the applicants in accordance with the list so corrected and in their turn in accordance with the rules. There would be no order as to costs.

M.R.Kolhatkar

(M. R. Kolhatkar)
Member (A)