

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.No. 897/94

Date of Decision 30-5-96

Shri R.S.Dhotre Petitioner

Shri Suresh Kumar Advocate for the Petitioner.

Versus

General Manager, W.Rly, Bombay & Ors. Respondent

Shri N.K.Srinivasan Advocate for the Respondents.

Coram:

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

The Hon'ble Mr.

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

M.R.Kolhatkar  
(M.R. KOLHATKAR)  
MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, MUMBAI 1

O.A.NO. 897/94

Pronounced this the 30<sup>th</sup> day of May 1996

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

Shri Ravindra Nath S.Dhotre

By Advocate Shri Suresh Kumar

... Applicant

V/S.

General Manager,  
Western Railway,  
Bombay & Ors.

By Advocate Shri N.K.Srinivasan

... Respondents

O R D E R

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

Applicant's father was working as Class IV Railway employee and was allotted Type-I quarter viz. Quarter No. 152/R at Khar Road. He retired from service on 30.4.1983. The applicant was engaged as a daily rated casual labour u.e.f. 3.10.1983. He attained regular status on 1.11.1986, although the applicant has <sup>wrongly</sup> claimed the date to be 24.10.1985. The applicant applied for registration for allotment of Railway Quarter Type II to SC-Non essential staff by letter dated 6.1.1992 at page 29 Annexure 'A-IV'. This application purports to be in terms of Railway Board Circular dated 27.7.1972 in which 5% special quota for SC/ST employees in Type-I and Type-II quarters at cities where the headquarters of the Zonal Railways and Production Units are located is prescribed. Para 4 of this Circular which is relevant is reproduced below :-

"4. For the purpose of allotment, two lists will have to be maintained, one general list which already exists and another special list to operate the 5 per cent special quota. Scheduled Caste/Scheduled Tribe employees who are senior enough and are covered in the general waiting list in their turn will be given allotment from the general pool quota. The special list for the 5 per cent quota will become operative only if the accommodation provided on the special quota shall be made according to an applicant's turn in the separate waiting list to be maintained for this purpose, for those who specifically apply for this benefit. Those covered in the general waiting list, will not however be eligible for this special quota."

It is not in dispute that subsequently the special quota for SC/ST employees was increased from 5 per cent to 10 per cent vide Circular dated 30.11.1992 at page 22.

2. Subsequently, in the meanwhile the applicant continued to stay in the quarters of his father (who incidentally expired on 27.8.1984), eviction proceedings were initiated and the final order of eviction was passed on 21.7.1994. There has been a stay of eviction by way of interim relief.

3. The contentions of the applicant are as below. Firstly, he claims regularisation of quarter allotted to his father by way of out of turn allotment on father to son basis. Secondly, he contends that if necessary his case may be regularised as special case as was done in the case of one Kuriakose who was working as Asstt. Driver with the Railways and in whose case the quarter allotted to his father was regularised by the orders dated 12.10.1990 at Annexure-XII. Thirdly, he contends that he is entitled to special quota available to the

SC employees and his case for allotment of quarters should be considered on the basis that he applied for the special quota in 1992. He contends that at the time he applied he did not belong to essential category but in the meanwhile he has become "essential" and he stands first in the "store pool" category been and therefore he ought to have allotted a Railway quarter long back, specially when in his information several quarters as on 1.2.1994 were available vide Annexure-'A-XI'.

4. The respondents have opposed the application. They have pointed out that applicant does not qualify for regularisation of quarter on father to son basis because his employment as a daily rated casual labour was after the superannuation of his father. He may be sharing the Railway quarters with his father from his birth but the sharing was not as a regular railway employee. In fact he has attained the regular status only on 1.11.1986 long after superannuation of his father. Regarding the case of Kuriakose, it is stated that the orders of allotment were made to Kuriakose by the Railway Board and not by Western Railway. Regarding the contention of the applicant that he is stores entitled to pool accommodation against 10% quota, it is contended that the total number of quarters in Stores Pool is 38 of which 20 are occupied by SC and 5 are occupied by ST employees and the percentage of SC/ST occupation is 65.78%. Therefore, the actual occupation is much more than the special quota fixed for SC/ST. Therefore, the question of allotment of special quota to the applicant does not arise.

M

5. I have considered the matter. It is evident that the applicant does not qualify for allotment of quarter on father to son basis. I am also of the view that <sup>was</sup> the circumstances under which the allotment <sup>but</sup> given to Shri Kuriakose on out of turn allotment basis are not <sup>clear</sup> clear <sup>that</sup> that by itself does not entitle the applicant to any out of turn allotment. The only ground which needs be considered is whether the special <sup>quota</sup> accommodation is to be counted as a quota over and above the allotment made to SC/ST employees in their turn and whether the percentage of 65.78% includes such persons belonging to SC/ST community to whom the allotment was made in accordance with their turn. Although, the respondents have not clarified this specific aspect, I am of the view considering Para 4 of the Circular dated 27.7.1972 reproduced that the special quota is over and above the employees already covered in the general waiting list and the employees covered in the general waiting list, will not however be eligible for the special quota. The applicant has <sup>applied</sup> applied for the special quota in 1992. According to the respondents, the applicant has been enrolled in special quota in 1994 but since the applicant has applied in 1992, his name needs be shown in the separate list for the special quota as from 1992. If the special quota has not been operated so far, the respondents are <sup>required</sup> required to operate it in terms of the orders dated 27.7.1972. The applicant, therefore, <sup>relief in terms of</sup> and <sup>is entitled to</sup> is entitled to <sup>succ-</sup> succ- is entitled to <sup>in this direction</sup> to the extent but the <sup>see</sup> see occupation of the quarter which was originally allotted to his father cannot be linked up with the entitlement to the quarter in terms of special quota.

6. I, therefore, dispose of the OA<sup>nos</sup> by passing the following order :-

ORDER

Interim stay on eviction is vacated. However, the respondents are directed to show the name of the applicant in special quota for SC employees from the date of his application viz. 6.1.1992 and consider allotment of quarters to him in his turn in accordance with his position in the separate list in terms of date of registration, namely, 6.1.1992 and when a vacancy arises. There will be no order as to costs.

*M.R. Kolhatkar*

(M.R.KOLHATKAR)

MEMBER (A)

mrj.

order/Judgment despatched  
to App<sup>ts</sup> Respondent (s)  
on 6.6.96

*AT/16/96*