

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO.: 1463 OF 1995.

Date of Decision : 26-7-96

Smt. Rubeda, Petitioner

Shri Suresh Kumar, Advocate for the Petitioner.

VERSUS

Union Of India & Others, Respondents.

Shri V. S. Masurkar, Advocate for the respondents.

CORAM :

HON'BLE SHRI B. S. HEGDE, MEMBER (J).

- (i) To be referred to the Reporter or not ? *
- (ii) Whether it needs to be circulated to & other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

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to reside. On her request, the respondents had extended the period of stay in the railway quarter till 11.04.1995. She further contends that her son had applied for a compassionate appointment and the request for compassionate appointment is pending before the railway authorities and they have not sent any reply. The applicant therefore submits that she may be allowed to continue in the quarter till the railway authorities give reply to her request for her son's compassionate appointment.

3. In the eviction order passed by the respondents, it is mentioned that the applicant is in unauthorised occupation of the railway quarter from 12.04.1994. The said statement does not appear to be correct because there is some grace for any employee who died in harness or on retirement are allowed to continue in the quarter, which is not mentioned in the eviction order. It is on record to show that on the basis of the request made by the applicant, the respondents allowed her to continue till 11.05.1995 vide their letter dated 23.09.1994. That being so, the question of recovery of any penal rent till that period does not arise.

4. The respondents in their reply raised a preliminary objection that this Tribunal cannot entertain the petition of the applicant, firstly on the ground that the applicant is not a railway servant and has no locus standi to file (a) case before the Central Administrative Tribunal. Secondly, the competent court to entertain the order passed under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is the City Civil Court or the District Court under section 15 of the P.P. Act. No other Court has jurisdiction to try or to entertain the the said grievance. The applicant has obtained an

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ex-parte interim order on 14.12.1995 without exhausting the statutory remedies before approaching this Tribunal. It is further alleged that the O.A. deals with the compassionate appointment sought for by the applicant to her minor son who has even as on date has not completed 18 years of age. Apart from this, the railway servant who died on 11.04.1994 was not died during the course of employment and he was not on duty but outside the duty time and therefore, the question of compassionate appointment do not hold any value in the rules. In para 16 of the reply, the respondents clearly state that the request of the present applicant for considering her son's case for compassionate appointment cannot be acceded to because his date of birth is 22.12.1979 and he will attain the age of majority i.e. 18 years, on 22.12.1997 and therefore, no compassionate appointment can be made at this stage. It is also stated that the request of the applicant for appointment of her son on compassionate ground can be considered when he attains the age of majority in accordance with the law. Therefore, the said position have no effect on the quarter to be vacated in terms of the eviction order passed by the competent authority.

5. I have heard the learned counsel for the parties and perused the pleadings. It is an admitted fact that the applicant was allowed to continue in the quarter till 11.05.1995 and thereafter, no further permission was granted to the applicant by the respondents to continue in the quarter. Her request for compassionate appointment of her son has been rejected since her son is a minor and the compassionate appointment cannot be tagged on with the eviction of the quarter.

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6. For the reasons stated above, I do not find any substance in the contentions raised by the applicant in para 8(a) i.e. to quash and to set aside the impugned order dated 14.11.1995 and in my view, the impugned order passed by the respondents is just and fair. Accordingly, the interim order passed on 14.12.1995 stands vacated, as there is no illegality in the eviction order passed by the respondents.

7. The applicant has also prayed for release of the gratuity amount payable to her husband, which has not been paid in view of her continued occupation in the quarter after the expiry of her husband. The same is liable to be paid by the respondents in accordance with the rules. Since the applicant has been allowed to continue in the quarter for more than the required period, the respondents are liable to pay interest @ 15% ~~after the extended period is over till the payment is made~~ ^{after vacating the quarter and} after the extended period. In the circumstances, the O.A. is admitted and disposed of at the admission stage itself. No order as to costs.

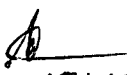

(B. S. HEGDE)
MEMBER (J).

this judgment stands modified

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*vide order passed in RP 91/96 on 31/10/96
para 7 not wanted & passed following*

*The respondents are liable to pay interest
only after she vacates quarter and if there
is any further delay in the payment of any
due till the payment is made*


19/11/96

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

R.P. 91/96 in
Original Application No. 1463/95

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Smt. Rubeda

... Applicant,

By Advocate Shri Suresh Kumar.

V/s.

General Manager and two others

... Respondents.

Western Railway

By Advocate Shri V.S. Masurkar.

Tribunal's order

Dated: 31.10.96

Heard Counsel for the parties.

The Tribunal vide its order dated 26.7.96
after hearing the parties made the following observations:

" The applicant has also prayed for
release of the gratuity amount payable
to her husband, which has not been paid
in view of her continued occupation in
the quarter after the expiry of her husband.
The same is liable to be paid by the
respondents in accordance with the rules.
Since the applicant has been allowed to
continue in the quarter for more than
the required period, the respondents are
liable to pay interest at 15% after the
extended period is over till the payment
is made."

The respondents have filed R.P. seeking
clarification of the order. In a similar case,

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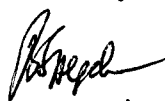
the Department has filed an SLP against the decision of the Tribunal which has been disposed of on 4.12.95 stating that the grievance of the Railway Administration is that after the Respondent superannuated he did not vacate the quarter occupied by him and thereby committed a breach of one of the terms of employment and therefore, the Appellant was entitled to withhold the amount and in any case cannot be said to be liable to pay interest on the amount so held. In the facts and circumstances of the case, the Tribunal had ought not to have granted interest for delayed payment till the date the respondent vacated the quarter. In the present case the applicant till now has not vacated the quarter. In para 7 it is mentioned that the respondents are liable to pay interest at 15% after the extended period is over till the payment is made.

In the facts and circumstances of the case and the decision of the Apex Court the observations in para 7 is not warranted. Accordingly I hereby modify the order dated 26.7.96 and pass the following order:

The respondents are liable to pay interest only after she vacate the quarter and if there is any further delay in the payment if any due till the payment is made.

Accordingly R.P. is disposed of.

Copy of the order be given to the parties.


(B.S. Hegde)
Member(J)