

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1055 OF 1995.

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DATE OF DECISION: 1.3.96

Smt. Neeta R. Jadhav, Petitioner

Shri M.S. Ramamurthy, Advocate for the Petitioner*

Versus

Union Of India & Others, Respondents

Shri V. S. Masurkar, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B. S. HEGDE, MEMBER (J).

The Hon'ble Shri P.P. SRIVASTAVA, MEMBER (A).

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

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

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
GULESTAN BLDG. NO. 6, 3RD/4TH FLOOR
PRESKOT ROAD, FORT, BOMBAY-400 001.

ORIGINAL APPLICATION NO.:1055 OF 1995
Announced in open Court on
Dated, this 1st the March day of 1996.

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

Hon'ble Shri P. P. Srivastava, Member (A).

Neeta R. Jadhav ... Applicant
(Advocate by Shri M.S. Ramamurthy) .

VERSUS

Union Of India & Others ... Respondents.
(Advocate by Shri V.S. Masurkar).

: O R D E R :

¶ PER.: SHRI B. S. HEGDE, MEMBER (J) ¶

1. Heard Shri M.S. Ramamurthy, Counsel for the applicant and Shri V. S. Masurkar, Counsel for the respondents. The applicant has filed this O.A. challenging the order of the respondents dated 27.07.1995 (exhibit 'A') and 02.05.1995 (exhibit 'B') and also seeks direction to the respondents to restrain them from evicting her from the railway quarter presently occupied by her, /from recovering the damage/penal rent for occupation of the railway quarter, /from taking any disciplinary action against her for her continued occupation of the railway quarters in question, etc.

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2. The brief facts of the case are -

The applicant is working in the respondents department as Superintendent, Grade-II, in the office of the Chief Claims Officer, Central Railway, Bombay V.T. The dispute relates to the quarter in question. The applicant's father - one Shri D. J. Detha, was employed in the respondents' department as Chargeman Grade 'A' in the C & W Workshop, Central Railway, Matunga and he retired from service w.e.f. 01.01.1985. The applicant states that she was in occupation of the said quarter alongwith her late father ever since the same was allotted to late Shri Detha. Since the date of her appointment, she has not been drawing the House Rent Allowance as she was living in the railway quarters allotted to her father. The applicant was married in the year 1981 and she applied for transfer of quarter in her name on 26.12.1984, however, her request has been turned down by the respondents vide their letter 13.02.1986 stating that her request for allotment of quarter occupied by her father in her name is not permissible in view of her marriage and in view of the act that she had left the quarter to stay with her husband after her marriage, etc. However, she states, within two months of the marriage she was turned out to her maternal home and consequently she started living in the railway quarter allotted to her father. The respondents vide their letter dated 11.08.1992

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changed the policy that when a railway servant who is an allottee of railway accommodation retires from service, his/her son, unmarried daughter, wife, husband or father as the case may be, may be allotted railway accommodation on out of turn basis subject to fulfilment of prescribed condition. Further, they have decided to extend the scope of this concession to the married daughter of a retiring official, in case he does not have any son or in case where the married daughter is the only person who is prepared to maintain the parent(s), etc. In the meanwhile, consequent to the rejection of her request, eviction order was passed by the respondents vide dated 31.10.1987, against which the applicant filed a petition before this Tribunal vide O.A. No. 688 of 1987 which was rejected on 02.12.1993. The Tribunal while disposing of the O.A. passed a specific order on the basis of an undertaking given by the applicant to vacate the quarter within three months from the date of receipt of a copy of the order. However, it is made clear that if the applicant is eligible for allotment of a quarter according to her turn, the order that we are passing would not come in any way for such allotment, etc. Instead of vacating the quarter, the applicant filed an S.L.P. before the Supreme Court vide No. 5952/94 against the order of this Tribunal, which was dismissed on 11.11.1994. Despite the same, the applicant filed this O.A. reagitating the very same claim that by virtue of the change in the policy she is entitled to get

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the quarter in occupation transferred to her name on father to daughter basis. The respondents have stated that since the applicant has again filed this O.A. for the very same relief in order to regularise the quarter in question, the application is barred by the principles of res-judicatta. Further, the respondents submits that the present application is nothing but consistent efforts of the applicant to remain in occupation of the government accommodation unauthorisedly. The applicant has been in occupation of the quarter for more than 10 years without any proper authorisation. As a matter of fact, by virtue of Tribunal's order, the applicant was bound to vacate the quarter within three months from the date of receipt of a copy of the order. Instead of complying with the direction of the Tribunal, the applicant continued the unauthorised occupation of the quarter which would amount to contempt of court. It may be recalled that pursuant to the change in the policy of the government, though she made a representation it has been turned down and she has been in unauthorised occupation of the quarter since 01.04.1994, thereby the respondents are perforced to issue their latest order dated 27.07.1995 asking her to pay the damage rent with effect from 01.03.1985 and to initiate disciplinary proceedings. The Learned Counsel for the applicant vehemently urged that the question of re-initiating the disciplinary proceedings does not arise, as it does not amount to misconduct. In this connection, he cited the decisions of the Tribunal -

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4451 according to which the damage rent is not recoverable unless the appropriate disciplinary proceedings and the action under Public Premises (Eviction of unauthorised occupants) Act 1971, is initiated against the applicant.

3. In the light of the above, considering the facts and circumstances of the case, we are of the view that the applicant has no locus-standi to re-agitate the matter once again and it is not a matter of right that transfer of quarter from father to daughter is to be given automatically. Her request for transfer of quarter has already been rejected twice. The plea of change of policy was already available to the applicant when the O.A. No. 688/87 was ^{heard and} ~~rejected~~ by the Tribunal on 02.12.1993. That decision of the Tribunal has been upheld by the Supreme Court later on. In the result, we are of the view, that there is no merit in the O.A. and the same is dismissed. No order as to costs.


(P.P. SRIVASTAVA)

MEMBER (A).


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