

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 337/97

Date of Decision: 21.8.97

Ms. Jayashri D. Jadhav.

Applicant.

Shri D.V. Gangal.

Advocate for
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri V.S. Masurkar.

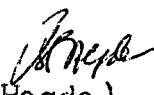
Advocate for
Respondent(s)

CORAM:

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

Hon'ble Shri,

- (1) To be referred to the Reporter or not? *p*
- (2) Whether it needs to be circulated to *p*
other Benches of the Tribunal?


(B.S. Hegde)
Member(J)

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

Original Application No. 337/97

It is the ~~Thursday~~ day of August 1997.

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

Jayashri D. Jadhav
Safaiwaliq
Jagajiwanram Hospital
Western Railway
Mumbai Central
Mumbai.

... Applicant.

By Advocate Shri D.V. Gangal.

V/s.

Union of India through
General Manager,
Western Railway
Head Quarters Office
Churchgate,
Mumbai.

Divisional Railway Manager
Mumbai Division
Western Railway
Mumbai Central
Mumbai.

Estate Officer and
Sr. Divisional Engineer,
Western Railway
Mumbai Division
Mumbai Central
Mumbai.

... Respondents.

By Advocate Shri V.S. Masurkar.

O R D E R

¶ Per Shri B.S. Hegde, Member(J) ¶

In this O.A. the applicant is praying for a direction to restrain the respondents permanently from evicting her from and her parents from the said Railway quarter No.16/E/A, Room No.1, Railway Colony Khar (W), Mumbai. and also seeking a direction to the respondents to allot the Railway Quarter on out of turn basis against the percentage reserved for SC/ST

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employees in accordance with the order of the Railway Board.

2. The facts are not in dispute. The applicant's father retired from Railway service on 30.9.90. The licence for the occupation of the said quarter came to an end on 30.9.90 due to his retirement and hence after the permissible period under the rules he should have vacated the quarter on 1.10.90. Since, he did not vacate the said public premises the oral order was passed by the Estate Officer under P.P. Act 1971 on 12.4.93 and the final order of eviction under section 5(1) of the P.P. Act was passed on 12.4.93 and the same was served on the late Shri Dagdu Arjun on 19.4.93. The applicant contends that she is entitled to continue in the quarter as family member and by virtue of percentage of reservation for SC/ST quota on out of turn basis. It is true that the present applicant joined in the month of June 1996. It is also not disputed that on 12.4.93 eviction order was passed and was finally implemented on 9.2.96. Thereafter one Shri Ravindra Gangaram has been allotted the said quarter on 13.2.97 and he has occupied the said quarter on 13.2.97. The Senior Section Engineer (W), Santacruz vide his note dated 25.2.97 addressed to the respondent No.3, gave the compliance report stating that the quarter is being occupied by Ravindra Gangaram. Therefore, the learned counsel for the respondents states that the Ex-parte interim relief obtained by the applicant on 11.4.97 has become infructuous and has no

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legal consequences and obtained the interim relief by suppressing the material facts before the Tribunal. The learned counsel for the applicant contended that there is no Eviction Notice against the applicant, which on perusal of the record found to be incorrect.

3. The contention of the learned counsel for the applicant is that despite the stay granted by the Tribunal the respondents have evicted the applicant from the quarter on 14.4.97, thereby committed contempt of Court for which the applicant has filed complaint to the Police regarding forcible eviction. Consequent to the Rejoinder filed by the applicant, the respondents have filed Sur-rejoinder negating certain contention raised by the applicant in the rejoinder and re-instated the views what they are stated in the written statement. On perusal of the various documents furnished by the respondents, we are satisfied, that the requisite notice was served on the late employee, through IOW Santacruz. The said notice was also sent to the applicant by registered post. The respondents also states that the said notice was also affixed on the premises of the father, the deceased Railway employee. Annexure R-9 is the copy of the Affixation report duly signed by two witnesses and the concerned IOW. Despite the notice, the deceased Railway servant did not attend the hearing and hence one more

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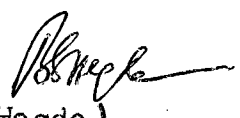
opportunity was given to the applicant vide notice dated 26.2.93.

4. In the light of the above, the only question for consideration is whether the applicant has been evicted from the quarter prior to the ex-parte interim relief passed by the Tribunal. The applicant was not able to convince the Tribunal, that the present applicant who is in occupation of the quarter has been evicted subsequent to the ex-parte order passed by the Tribunal. As stated earlier, the applicant has been evicted from the quarter as back as 19.2.96 and the ex-parte interim order is dated 11.4.97. However the question of regularisation of the quarter in the name of the present applicant does not arise because late Shri Dagdu Arjun retired from Railway service in the year 1990, whereas the present applicant has joined the Railway service in the year 1996. Thereby, regularisation of the said quarter in the name of the present applicant hardly arises. During the course of hearing, the learned counsel for the respondents has drawn my attention to the various amounts due to the applicant and has been paid vide Exhibit R.12, in which it is shown that recovery upto 16.2.96, that itself shows that thereafter, the applicant was not in occupation of the said quarter. Recovery of electric charges has been recovered vide their order dated 2.4.97 (Exhibit R.13).



5. During the course of hearing the learned counsel for the applicant has drawn my attention to the decision of the Tribunal in O.A. 897/94 decided on 30.5.96, wherein the Tribunal has directed the respondents to show the name of the applicant in special quota for SC/ST employees from the date of his application 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, when a vacancy arise. It is not known whether the applicant has made any application to the competent authority for allotment of quarter on the basis against the percentage reserved for SC/ST quota. In case, the present applicant has made such application, the respondents may consider the said application in her turn in accordance with Rules and pass appropriate order as they deem fit.

6. In the light of the above, since the applicant has already been evicted from the quarter nothing survives in the O.A. Therefore, the question of regularisation of the said quarter in the name of the present applicant does not arise. The O.A. is devoid of merits and the same is dismissed. No order as to costs.


(B.S. Hegde)
Member (J)