

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 155 of 1989

Date of Decision :

~~TA~~ No.

<u>Mr. N.M. Prasad and another</u>	Petitioner.
<u>Mr. F. Laxminarayana</u>	Advocate for the petitioner (s)
Versus	
<u>Union of India and 2 others</u>	Respondent.
<u>Mr. N.V. Ramana, SC for Rlys.</u>	Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. J. Narasimha Murthy, Member (Judl.)

THE HON'BLE MR. R. Balasubramanian, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HJNM
M(J)

HRBS
M(A)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J.NARASIMHA MURTHY, MEMBER (JUDL.)

This petition is filed by the petitioners for a relief to declare the impugned proceedings of the 3rd respondent in No.TR/P/555/Genl/Vol.II, dated 10.2.1989 as illegal, arbitrary, violative of Articles 14 and 16 of the Constitution of India and quash the same and consequently direct the respondents to allot the quarters on the basis of the priority list for allotment of quarters issued in Proceedings No.TR/P.555/Quarters, dated 24.11.1988. The facts of the case are briefly as follows:-

The first applicant joined in service as Khalasi in the year 1977. He joined in the same capacity in the Carriage Repair Shop, Tirupathi on 22.5.1986 and applied for Type-I allotment of quarters as he belongs to Group-D category. Subsequently, he was promoted as Fitter/Grade-III on 23.12.86 which is under Group-C category and he is eligible for Type-II quarters. The 2nd applicant joined in service as Khalasi in the year 1978. In pursuance of the options called for from various units, the 2nd applicant gave his option and joined at Carriage Repair Shop, Tirupathi on 14.3.1986. On 17.3.86 he applied for allotment of Type-I quarters. The 2nd applicant was subsequently promoted as Fitter/Grade-III (Group-C category) on 25.11.1987 and hence he is also eligible for Type-II quarters.

2. In the year 1988, a review was taken place and the General Manager's office, Personnel Branch, Secunderabad



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issued a new policy in its proceedings No.P(QRS)555/Policy-Vol.II, dated 10.8.1988 regarding allotment of Railway quarters. In para 1(i)(a) of the proceedings, the staff who have already registered their names for the eligible type of quarters, whether they have accepted Type-I and moved over to Type-II or not, the date of their entitlement for the relevant type of quarters will be the date and the existing seniority will be recast accordingly as one time measure. Such lists for entitlement either to Type-II or Type-III shall be prepared and circulated. Staff who have not registered their names at all for Type II/III quarters will not be allowed to interpolate their names while recasting their seniority. In para 1(i)(b) of the proceedings dated 10.8.88, it was stipulated that as far as fresh requests are concerned, the date of registration will be the criteria. Hence, it is clear that the applicants who have already applied for allotment of quarters on 22.5.1986 and 14.3.1986 are entitled for Type-II Quarters and they are also entitled for their seniority in the priority list for allotment of quarters.

3. According to the above proceedings dated 10.8.88, the 3rd respondent published the priority list for allotment of quarters on 24.11.1988 showing the name of the applicants correctly for Type-II quarters at Sl.No.94 and 68 respectively. But surprisingly without any notice to any one, ^{the 3rd respondent} published another priority list showing the applicants for Type-I quarters far below in the seniority. In the said list, juniors to the applicants in the category of Fitter Grade-III and who applied much later at point of time to the applicants were shown over and above the applicants. Therefore, juniors in the category of Fitters Grade-III ~~and~~ who applied much later

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will be allotted the quarters as against the rights of the applicants who are seniors. Though the applicants are eligible for Type-II quarters, they were shown by the 3rd respondents as eligible for Type-I quarters in the new list. Aggrieved by the same, the applicants made a representation to the 3rd respondent. The 3rd respondent by the impugned proceedings dated 10.2.1989 stated that "it is decided to allot quarters based on the date of original application for the type of quarters which he is eligible for and also one has to apply when he becomes eligible for higher type of quarters." Aggrieved by the impugned proceedings, the applicants filed the present application for the above said relief.

4. The respondents filed a counter with the following contentions:-

The first applicant joined the Carriage Repair Workshop, Tirupati on 22.5.1986 as Khalasi in the pay scale of Rs.196-232. He applied for allotment of Type-I Railway quarters by his application dated 22.5.1986. On the date of application, he was eligible for Type-I quarters only. Subsequently he was promoted to skilled grade III (Group 'C' post) on 23.12.1986. As a Group 'C' employees he was eligible for Type-II Quarters but he has not applied for Type-II quarters. The 2nd applicant joined the Carriage Repair Workshop, Tirupati as Khalasi on 14.3.1986. He applied for allotment of Type-I quarters vide his application dated 17.3.1986. He was promoted to skilled grade which is a group 'C' post on 25.11.1987. Though he was eligible for Type-II quarters, he did not apply afresh for Type-II quarters. It is denied that the applicants were placed on priority in respect of Type-II quarters at any time.

bility for such quarters, his name will be deleted from the Type-I priority list and incorporated in Type-II priority list, taking the date of application for Type-II quarters as the basis. Hence, two priority lists were prepared for Type-I and Type-II quarters on 29.12.1988. This is done with a view to avoid confusion and possibility of misinterpretation. No different principles has been adopted while preparing two separate lists for Type-I and Type-II quarters but the position is made clear. The applicants cannot ~~xxx~~ claim as a legal right for Type-II quarters without applying for the same. ~~As the~~ As the applicants did not apply for Type-II quarters after they were promoted and became eligible for Type-II quarters, they are not entitled to get priority in the list for Type-II quarters. A number of employees who applied for Type-I quarters, applied afresh for Type-II quarters after their promotion. However, the applicants knowing fully well about this practice failed to apply for Type-II quarters and hence their names were not registered for allotment of Type-II quarters. The impugned circular is perfectly legal and valid and there is no legal obligation to give any notice before publishing the priority list for Type-I and Type-II quarters during December, 1988. For the above reasons, it is stated that the applicants failed to make out a case and hence the application is liable to be dismissed.

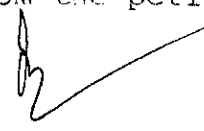
5. Shri T.Laxminarayana, learned counsel for the applicants, and Shri N.V.Ramana, learned Standing counsel for the Railways/Respondents, argued the matter. The plea of Shri Laxminarayana is that the applicants were originally

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appointed in Group 'D' post and entitled to Type-I quarters and subsequently they were promoted to Group 'C' post and they are entitled to Type-II quarters. Both the petitioners applied for Type-I quarters and a list was prepared and those who were promoted to Group 'C' post, they were entitled to Type-II quarters. The petitioners did not apply for Type-II quarters and the plea of the petitioners is that though they have not applied for Type-II quarters and since they have already applied for Type-I quarters, after their promotion to Group 'C' post, the Department has to consider them for Type-II quarters and allot them Type-II quarters. The petitioners stated that the respondents instead of doing so, they did not show their names in the list of Type-II quarters.

6. The contention of the respondents is that when the petitioners were holding the Group 'D' post of Khalasi, they were entitled to Type-I quarters and hence they gave application for Type-I quarters and got registered their name for Type-I quarters. Meanwhile, they were promoted to Group 'C' post of Fitter Grade-III and they are entitled to get Type-II quarters but they did not apply for the same. Hence, their names in the priority list of Type-II quarters were not shown. Unless their name is registered for Type-II quarters, their case cannot be considered for allotment of Type-II quarters. They must give an application for the required Type-II quarters. If they are promoted to Group 'C' and they are entitled to Type-II quarters, it is not possible for the Department to allot Type-II quarters without an application for allotment of Type-II quarters from the petitioners.



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7. In the instant case, the Department published a priority list of Type-I quarters where the names of the petitioners were found in the list. The Department published another priority list of Type-II quarters wherein the names of the petitioners were not found because they did not apply for the Type-II quarters. Without applying for Type-II quarters, it is not possible for them to allot. Simply because the petitioners were promoted to Group 'C' post and they are entitled to Type-II quarters, without their application for willingness to get the Type-II quarters it is not possible for the Department to register their names for allotment of Type-II quarters. "Some people may like to go into Type-II quarters and some may not like to go into Type-II quarters as they are already applied/occupied Type-I quarters ^{or} for so many reasons. Unless there is an application for allotment of Type-II quarters, it is not possible for the Department to allot Type-II quarters.

8. On behalf of the respondents, it is stated that the 2nd applicant was already allotted Type-II quarters and the 1st applicant will also get Type-II quarters in due course when his turn comes. So, the Department is not at fault in ~~wa~~ allotting the quarters. Only the petitioners have not evinced any anxiety to give an application seeking allotment of Type-II quarters. So, without an application for allotment of Type-II quarters, it is not possible for the Department to give them Type-II quarters without knowing the intention of the petitioners whether they want Type-II quarters or not. There are no merits in this petition and the petition is liable

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to be dismissed. We direct the petitioners to give an application for allotment of Type-II quarters and get their names registered for Type-II quarters as per the rules, if they are not yet provided with the Type-II quarters.

9. The petition is accordingly dismissed. There is no order as to costs.

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(J. NARASIMHA MURTHY)
Member (Judl.)

[Handwritten Signature]

(R. BALASUBRAMANIAN)
Member (Admn.)

Dated: 3rd May 1991 *[Handwritten Signature]* Deputy Registrar (J)

To

1. The General Manager, Union of India,
S.C.Rly, Secunderabad.
2. The Chief Personnel Officer, S.C.Rly, Secunderabad.
3. The Workshop Personnel Officer, Carriage Repair Shop,
S.C.Rly, Setti Palle Post, Tirupathi - 6.
4. One copy to Mr. T. Laxminarayana, Advocate
2-2-185/54/1/D, Bagh Amberpet, Hyderabad.
5. One copy to Mr. N. V. Ramanaiah, SC for Rlys, CAT. Hyd.
6. One copy to Hon'ble Mr. J. Narasimha Murthy, Member (J) CAT. Hyd.
7. One spare copy.

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TYPED BY *WS*

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA: V.C.

AND

THE HON'BLE MR. D. SURYA RAO: M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTHY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 3rd 5-1991.

ORDER / JUDGMENT.

M.A./R.A./C.A.No.

in

T.A.No.

W.P.No.

O.A.No.

155/89

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

