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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD

O.A.No. 661/91.

Date of Judgment: 31 Dec '91

Between:

Sk. Lal Sk.Ahmed

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Applicant

Vs.

1. General Manager, Rail Nilayam,
South Central Railway, Secunderabad.
2. Divisional Railway Manager, South
Central Railway, Hyderabad, Meter Gauge/SC.
Secunderabad.
3. Senior Divisional Personnel Officer,
South Central Railway, Hyderabad/MG/SC.
Secunderabad
4. Carriage on Wagon Superintendent (CWS),
Purna, Parbani District.
5. ~~TXR~~ ^{a. Dushyanta} Department, Qr.No.RB.II 326/4,
New Building, Purna, Parbani District,
Maharashtra State

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Respondents

Counsel for the Applicant : ~~Sri S. Lakshma Reddy~~

Counsel for the Respondents: Sri N.V.Ramana

CORAM:

Hon'ble Shri C.J. ROY, Member (J)

(Judgment of the Single Bench Delivered by the
Hon'ble Shri C.J.Roy, Member (J)).

This is an application filed under section 19 of the Administrative Tribunal Act, 1985 to declare the action of the respondents in allotting the quarter No.326/4 RB.II by the Divisional Railway Manager MG(HYD) South Central Railway, Secunderabad, to one Mr.P.Gopal at Sl.No.28, a TXR and subsequently to another Mr.Dushyant at Sl.No.38 also a TXR, by ignoring the seniority of the applicant whose serial No. being 22 according to Seniority List put up on the Notice Board on 11-1-1989, as illegal, and without jurisdiction and set aside the same and consequently direct the respondents to allot Qr.No.326/4 RB-II or any other Quarter to the Applicant

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2. The applicant is working as the Vaccume Exhauster Plant Mechanic/P.A.U., Purna, Parbani District in the scale of Rs.950-1500. They are termed as Group-C staff. All the Group 'C' staff in the scale of pay, the minimum of which is below Rs.380/- per month i.e., Rs.1290/- (RSRP) according to the D.R.M. (P) HYB (MG) S.C.L.No.Yp/555/12 Qrs/IR dated 9-6-88 are entitled for allotment of RB II type quarters. The TXR staff also belong to the same category. He further alleges that according to the combined application seniority for quarter registration and better type which was put on the Notice Board on 11-1-1989, the 3 employees at Sl.No.12, 13 and 14 had refused to take up the quarters. The employee at Sl.No.17 has been allotted the Quarter No.221/3 RB-II Type and now the Applicant is 5th in turn and hence 1st in the list for allotment of the better type quarter. He is presently residing at Quarter No.329/15 RB I new building which is on the 4th floor for which he has to climb 80 steps up and down and that he has an aged mother of 70 years who is suffering from 'Asthama', two daughters ill-health all the time who are going to School. As he has to attend regularly to the hospital and School, it is essential for him to shift the Quarters.

3. The applicant also made a representation dt.27-7-89 requesting the authority to allot him the quarter according to the seniority list. He has made another representation dated 22 21-8-89. He also alleges that the authority has without application of mind to the seniority list published in accordance with the Board's letter No. 88/LM/(B)/21/79 dated 24-7-89 prescribing the procedure for allotment of quarters to staff, has allotted to the

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~~to~~ the 3 TXR employees out of turn viz. (1) K. Dayanand, (2) K. Krishna Mohan, and (3) K. V. Ramana, and that it is discrimination. The applicant made several representations dt. 7-7-89, 3-8-89 and 17-8-89 marking copies to various authorities. He alleges that he was informed that 50% was classified as essential pool besides allotting the quarters in turn as and when they are vacant. Against this reply he made another representation on 30-12-89 to G.M. Thereafter the enquiry was made on 14-12-89 by the A.P.O/E/S.C. and the Welfare Inspector about the quarter and stated that the allotment has to be made to the Applicant. The applicant further alleges in respect of the Board's Circular dt. 24-7-89 bearing No.88/LM/(B) 21/79 that the authority acted contrary to the procedure of the said type-II quarters and allotted to Sri P. Gopal TXR, PAU at Sl.No.28. The control message was given on 1-5-91 from the DRM/MG/HYB/SC to the carriage on Wagon Superintendent (L.W.S.) Purna at Parbani not to allot to anybody, the Railway Quarters No.326/4 RBII at PAU vacated by Sri P. Gopal, TXR/PAU till further orders. He also alleges, besides this another quarter was allotted to one Sri C.N. Dushanta, TXR at Sl.No.30, and another Qr. No.221/1 type-II to one Sri Dashrath Kishanlal at Sl.No. 28 TXR. Thus the change of policy of this has been intentionally done, when the applicant and two others are in the waiting list first on turn for better type quarter. This is done only to deprive them. The action of the respondents is contrary to Railway Board's letter dt.24-7-89 bearing No.88/LM/B/21/79 and without jurisdiction.

4. The applicant has also filed material papers dt.11-1-89 Publication in Notice Board regarding seniority for quarter registration ~~at~~ page-1, dt.27-7-89 representation of the applicant to ~~Railway~~ Divl. Railway Manager at page-2&3, Letter dt.4-12-89 issued to the applicant bearing No.YP/555/12/PAU/DOR of DRM/P/MG/HYB at page-4;

Representation dt.10.11.89 of the Applicant to the General Manager, South Central Railway, Secunderabad at pages-5&6; and Copy of Telegram dt. 1-5-91 at page-7.

5. The reply affidavit was filed on behalf of Respondents No.1 to 4 countering all the allegations stating that the applicant was appointed in the Railways on 2-6-1971 as C&W Khalasi and he is presently working as Vacuum Exhauster Plant Mechanic in skilled Grade Rs.950-1500 (RSRP) under CWS at Purna. The applicant is already in occupation of Railway Quarter No.329/15-RB.I at Purna. He has also registered his name for change of higher type II quarter on 5-2-87. The category of VEPM (Vacuum Exhauster Plant Mechanic) to which he belongs is 50% essential for allotment of quarters whereas the category of TXR belongs to 100% essential for allotment of quarters in C&W Department vide Chief Personnel Officer, S.C.Railwa , Secunderabad's letter No.P(R) 555/allotment dt.5-5-87 (Annex.R-1 of material papers). Though the category of VEPM and TXR are classified as Group-C, but the rules for entitlement of type of quarter and allotment of quarters as per their essentiality i.e. 100% and 50% are different vide DRM(P)MG Divn.HYB's letter No.YP/555/12/Qrs/IR dated 9-6/9-9-88 (Annex.R.II) and the Railway Board's letter No.88/LM(B) 21/79 dt. 24-7-89 (Annex.II^I). While out of 12 TXRs (100% essential), only four have been provided with quarters whereas out of four VEPMs (50% essential) three are provided with quarters at Purna. So the comparison resorted to by the applicant to his category i.e., VEPM with that of TXR staff in the allotment of quarters is misleading and the same is denied. It is also stated that a combined application seniority for quarter registration and better type of Group-C of C & W Department was put up on the notice board on 11-1-1989,

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for information and guidance of staff. Separate priority lists of quarters are being maintained for allotment of quarters for Group 'C' (Class-III) and Group 'D' (Class-IV) as per the essentiality in C&W Department as follows:

- (a) Registration for quarters Group C (Class-III) staff as per 50% essentiality (Annex.R.V).
- (b) Registration for Quarters Group 'C' (Class-III) staff as per 100% essentiality (Annexure R.VI).
- (c) Registration for quarters Group D (Class IV) staff as per 50% essentiality Annexure (R-VII).

It is stated that the applicant belongs to 50% essentiality as per registration at item (A) above and he will be allotted higher type of quarters as per his turn of priority i.e., Serial No.21 of Annexure V.

6. It is also alleged that the Quarter No.326/4, R.B.II does not belong to C & W Pool at Purna but it belongs to Loco Pool at Purna and as such the application is baseless. They also denied that the said quarter neither ^{was} allotted to Sri P.Gopal nor to Sri C.N.Dushanta, ~~since~~ ^{as} the above persons belong to supervisory category working in Gr. Rs.1400-2300 (RSRP). The category of TXR is 100% essential for allotment of quarters. They have registered their names for allotment of type II quarters on 20-7-87 and 1-11-87 respectively at Sl.Nos.1 & 2 of Annex.VII. Sri P.Gopal, TXR/Purna has been allotted quarter No.221/4, RB.II, CWS/Purna's letter No.GEL/5 dt.24-10-89 (Annex.VIII) and that subsequently Sri P.Gopal was shifted to another quarter No.326/3 RB.II at Purna on 27-10-90 under mutual exchange of quarters with Dasarath Kishanlal, TXR/Purna. It is stated that on vacation of Quarte No.326/3-RB at Purna by Sri P.Gopal, it was allotted to Sri C.N.Dushanta, TXR/Purna on 28-4-1991 as per his turn of priority in 100% essential pool of quarters vide CWS/Purna's letter No.GEL/5 dt. 28-4-91 (Annex.R.IX) since TXR pool quarter has to be allotted to TXR staff only.

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They further denied that the allegations in para-6(d) of the application that Sri K. Dayanand, Sri K. Krishnamohan and K.V. Ramana were allotted out of turn. They state that they belong to 100% essential category and they were allotted the quarters vacated by TXR staff only during the year 1988 as per their turn of priority i.e. much earlier than his representation dt 27-7-89 and 21-8-89. They further alleged that the applicant cannot compare and claim with that of 100% essential quarters as he comes under 50% essentiality for allotment of quarters. They also maintain that he has been replied for his representations that he would be allotted as per his turn in 50% essential category, as soon as Type-II Quarter is vacated by 50% essential artisan staff other than 100% essential TXR staff. They denied the other allegations. They also stated that the quarter vacated by TXR staff should only go to TXR staff as it is 100% essential and the applicant is entitled only for 50% essential category.

7. In para-7 they submit that according to the letter vide DRM(P)MG's letter No.YP/555/12/Qrs/Sangh dt. 20-12-90 (which is Annex.XI), the applicant has not come up for allotment of type-II quarter against 50% essential category at Sl.No.21 of Annexure R.V. They further allege that the applicant is already in occupation of Quarter No.329/15. RB.I. at Purna. His request for the change of higher type II quarter will be considered against 50% essentiality as per his turn of priority and as such there was no changed policy which was followed in the present case. They alleged that Board's letter No.88/LM/B/21/79 dt.24x 2-4-79 as referred to by the applicant indicates only

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the eligibility of type of quarters to the staff. As per this letter, the applicant is eligible for type II quarters as per his scale of pay Rs.950-1500 (RSRP). As per this eligibility, he has registered his name for allotment of type II quarter against 50% essentiality on 5-2-87. So he will get type II quarter as per his priority. There was no injustice done to him. They also filed the annexures cited supra.

8. For this, the applicant has filed a reply counter, more or less, asserting the main points that the separate list said to have been prepared on the basis of priority in 50% and 100% essentiality is only after the General Manager's instructions in PNM meeting dt. 31-12-90, and that the said priority list was never displayed on the notice board nor was communicated to the employee except producing them before this Tribunal. As per the Annex.3 of the Railway Board's letter dt. 24-7-89, and the DRM(P) letter dt. 9-6-89 i.e. Annex.2 TXR staff who fall within the pay scale of Rs.1400-2300 in Group-C staff are eligible for type III quarters only and not to type-II quarters. But, in the present case the respondents are not following the said instructions and contrary to it are allotting Type-II quarters to TXR staff. It is stated more or less urging the main points in addition to original application.

9. I ^{my} have heard the learned counsel Sri S.Lakshma Reddy for the applicant, and Sri N.V.Ramana, ~~learned~~ learned counsel for respondents and perused the records carefully.

10. On perusal of the records carefully, the applicant, in view of the policy fallen ^{into} ~~into~~ to the category of 50% essential staff, but not 100% TXR staff. It is even ~~Conceded~~ ^{considered} that the Board has authority to change the policy. The learned counsel for the applicant while

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arguing also concedes that the D.R.M., as appears to have re-classified the policy. He further stated that this ^{change} ~~change~~ ^{favour} cannot be against the Railway Board instructions. This classification could be made only within eligible scales of pay, but not to over-ride the pay scales of pay. But this argument is countered by learned counsel for respondents Sri N.V.Ramana stating that the Railway Board's letter is recommendation based on 4th pay commission and it is not mandatory. The applicant claims better type of category due to his promotion, but at the time of his chance, the policy of allotment is suddenly changed by the Board. But, I feel the allotment is not a matter of right. But according to availability, here the applicant is already occupying the quarter and due to the change of policy it cannot be questioned in view of Board's letter being a recommendation on the basis of 4th pay commission, but not having any mandatory force. The grouping of applicant into 50% allotment category cannot be called illegal. The learned counsel for respondent Sri N.V.Ramana states that Type.I quarters are only 50 at the place and Type.II are 6. Out of 6, three are allotted to 100% category, and 3 are allotted to 50% category. So, at present, there is no vacancy in Type.II quarter. Since the applicant belong to 50% category due to policy and TXR staff only 100% essential category, I hold that the applicant is not entitled to claim in the quarters that are ~~XXXXXX~~ meant for 100% essentiality. As per Annex.IV also, it is clear that the seniority list is based more or less on registration of the applications in accordance with their entitlements subject to availability. Both, fresh and better type quarters the seniority list is maintained as per Annex.IV where it is continued as seniority list. Annexure.V is separate seniority list

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for Group 'C' staff. The applicant is at S.No.21 and above him there are ~~are~~ more than 20 people. As already stated Sri P.Gopal and others were of TXR 100% essentiality category as per Annex.VI and that he stands at Sl.No.1 and the allotment is done in order, ~~conclusions~~ as stated supra and also by the date of registration. In my opinion the applicant has to ^{wait} watch for his turn, according to his entitlement in the list at Sl.No.21. The argument of learned counsel for the applicant that the list was ~~ended~~ anti dated and subsequent to filing of this O.A. cannot be believed in the ^{but} absence of any cogent, clear ^{and} believable evidence which is not placed before me and there is no malafides or vindictiveness is shown as one of the grounds nor I do not see any reasons that the Railway should discriminate against this applicant in the absence ^{of any motive alleged} since they do not have any motive against this particular applicant.

11. In view of the observations stated above, the respondents are directed to allot ^{The} quarter of his entitlement according to seniority as soon as the vacancy arises giving priority to the applicant as per rules and in accordance with the policy. With ~~these~~ remarks the application is dismissed. Under the circumstances no order is passed as to costs.

Dated: 3/12 December, 1991.

(C.J. ROY)
Member (J)

Deputy Registrar(J)

To

1. The General Manager, Railnilayam, S.C.Rly, Secunderabad.
2. The Divisional Railway Manager, S.C.Rly, Hyderabad, Meter Gauge SC, Secunderabad.
3. The Senior Personnel Officer, S.C.Rly. Hyd.M.G/SC, Secunderabad.
4. The Carriage and Wagon Superintendent (CWS) Purna, Parbani Dist.
5. TXR Department, Qr.No. RB.II 326/4, New Building, Purna, Parbani Dist, Maharashtra State.
6. One copy to Mr.S.Lakshma Reddy, Advocate, CAT.Hyd.Bench.
7. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
8. One ^{Copy to Hon'ble} Sr. C.J. Roy, Member (J), CAT, Hyderabad.
9. one spare copy.

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and
P.O.