



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 474/94.

Dt. of Order: 2-1-1994.

R. Madhava Rao

.. Applicant

Vs.

1. Union of India, rep. by its  
General Manager, Garden Reach,  
S.E. Railway, Calcutta-43.
2. Chief Administrative Officer  
(Constructions), SE Railway,  
Bhubaneswar.
3. Chief Project Manager (Construction),  
S.E. Railway, Visakhapatnam.
4. Estate Officer, S.E. Railway,  
Visakhapatnam.

.. Respondents

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Counsel for the Applicant : Shri P.B. Vijay Kumar.

Counsel for the Respondents : Shri V. Bhimanna, SC for Rlys

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CORAM:

THE HON'BLE SHRI A.B. GORTHI : MEMBER (A)

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(Order passed by Hon'ble Shri A.B.Gorthi,  
Member (A) ).

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The applicant Sri R.Madhava Rao having served the South Central Railway retired on superannuation on 30-6-90, as P.A. to Chief Administrative Officer (Construction) at Visakhapatnam. Prior<sup>to</sup> his retirement, his son Sri R.Gouri Shankar was engaged as a Casual Worker (ESM Gr.III) and as on the date of retirement of the applicant his son ~~was~~<sup>had</sup> acquired temporary status. The applicant was permitted to retain his Railway Quarter 19-A for a period of eight months from the date of retirement. The request~~ed~~ of the son~~d~~ of the applicant for allotment of the same quarter to him under the "Father and Son Rule" was considered by the competent authority, who finally decided on 31-10-91 that the son of the applicant would not be entitled to be allotted the quarter which was in occupation of his father. The said decision of the competent authority was received by the applicant on 2-11-91 and the applicant vacated the quarter on 28-11-91. For the period from 1-3-91 to 28-11-91, the Respondents charged penal rent of a sum of Rs.9,112/-, which they deducted from the Death-cum-Retirement Gratuity due to the applicant.

2. From the time of retirement of the applicant till the date he filed this Original Application, he was denied post retirement complimentary passes .

3. The prayer of the applicant is for a direction to the Respondents not to recover penal rate of rent for the period from 1-3-91 to 28-11-91 and also for issuing the applicant the complimentary passes.

4. The Respondents in their reply affidavit have not refuted the essential facts averred in the application. They however contended that the son of the applicant being only a casual employee was not entitled to the benefit of "Father and Son Rule" in the matter of allotment of quarters. The Respondents further brought out that the applicant approached the District Judge, Visakhapatnam, against the order of Estate Officer but the appeal filed by the applicant in A.S.172/91 was dismissed by the learned District Judge. As regards the ~~passes~~ post retirement complimentary passes, the Respondents contend that in accordance with the extant instructions when a railway servant continues to be in unauthorised ~~an~~ occupation of the Railway quarters even after retirement, he <sup>can</sup> justifiably be denied the grant of complimentary passes due to him.

5. Heard learned counsel for both the parties.

6. I may first take up the grievance of the applicant as regards the non issuance of passes to him after his retirement. When this Original Application came up for admission, an interim order was given to the Respondents to issue the applicant railway passes as per his entitlement. Shri V.Bhimanna, learned standing counsel for the Respondents once again reiterated that a railway employee can be denied grant of complimentary passes in case he <sup>does</sup> ~~does~~ not vacate the railway quarter in his occupation

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even after his retirement. The said contention can no longer be accepted in view of the decision of the Full Bench of this Tribunal in Wazir Chand Vs. Union of India ( Full Bench Judgments (CAT) Vol.II, page 287 ). The Tribunal held that dis-allowing the post-retirement passes for un-authorised retention of railway quarter as stipulated in the Railway Board instructions was unwarranted. Consequently, the applicant will be entitled to uninterrupted grant of complimentary passes. The respondents are hereby directed not to dis-allow any complimentary passes to the applicant.

7. Admittedly the applicant on his retirement on 30-6-90 was allowed to retain the railway quarter till 28-2-91 on payment of rent as per extant instructions. Consequently, the applicant's occupation of the railway quarter till 28-2-91 was lawful. As regards his occupation of the quarters from 1-3-91 to 28-11-91, Sri P.B.Vijay Kumar, learned counsel for the applicant urged that the same should be deemed to be regular because the applicant's son under the extant rules <sup>was</sup> ~~is~~ entitled to be allotted the same accommodation, in which the father and son were staying prior to the retirement of the father (the applicant). Notwithstanding the fact that the son was temporary employee, he would still be entitled to claim out of turn <sup>allotment of 2</sup> ~~1~~ accommodation under "Father and son Rule". In support of this contention Shri Vijay Kumar, counsel for the applicant cited the judgement in Ram Kumar Vs. Union of India ( (1987) 5 ATC 404 ). It was held therein that a casual labour with temporary status would be entitled to certain privileges including allotment

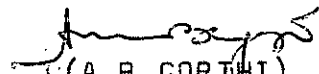
of Government accommodation. The question before me however is not whether the son of the applicant is entitled to Govt. accommodation. The question is whether the respondents were justified in declaring the occupation of the quarters by the applicant with effect from 1-3-91 to 28-11-91 as unauthorised. The request of the applicant and his son for allotment of the quarter to the son was under consideration by the respondents for some time.

After considering the case in its totality and keeping in view the circumstances of the case, the Respondents took a positive decision that the applicant must vacate the quarters vide their order dt.31-10-91. I do not find any justification for the conclusion that the order of the Respondents suffers from any irregularity as would warrant ~~any~~ interference.

8. In view of the fact that the occupation of the quarter by the applicant from 1-3-91 to 27-11-91 was unauthorised, prima facie the respondents were justified in imposing the penal rent and order recovery of Rs.9,112/- from the DCRG. However, in the instant case the applicant was made to suffer a considerable financial loss by the Respondents' decision to deny him the ~~passes~~ post retirement complimentary passes. Moreover, this seems to be a case where the employee held on to the Govt. accommodation not in defiance but in the hope that the said accommodation would be finally allotted to his son. When he received <sup>the</sup> final order of the Respondents dt.31-10-91 to the effect that his request for allotment of ~~the same~~ quarter to his son was rejected he took immediate action

and vacated the railway quarters on 28-11-91. Under these  
circumstances I am of the <sup>considered</sup> view that the ends of justice would  
be met if a direction to the respondents is issued to charge  
the applicant rent for the period from 1-3-91 to 27-11-91 at  
the rate of Rs.305/- per month only. Excess rent recovered  
from the applicant is liable to be refunded to him within  
two months from the date of communication of this order. If  
payment is delayed beyond the period of two months, interest  
at the rate of 12% per annum would be paid thereon.

9. The Original Application is ordered as above with no  
order as to costs.

  
(A.B. GORTHI)  
Member (A)

Dt. 2nd January, 1994.  
Dictated in Open Court.

Dy. Registrar(Judl.)

avl/

Copy to:-

1. General Manager, Union of India, Garden Reach, S.E. Railway Calcutta-43.
2. Chief Administrative Officer(Constructions), S.E. Railway, Bhubaneswar.
3. Chief Project Manager(Construction), S.E. Railway, Visakhapatnam.
4. Estate Officer, S.E. Railway, Visakhapatnam.
5. One copy to Sri. P.B. Vijayakumar, advocate, CAT, Hyd.
6. One copy to Sri. V. Bhimanna, SC for Rlys, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

MA 474/95

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE MR. A. V. HARIDASAN : MEMBER (B)

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

DATED :

21/1/95

ORDER/JUDGEMENT.

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

in

D.A.No.

474/95

Admitted and Interim directions  
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

*Not spare copy*

YLKR

