

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1202/97

DATE OF ORDER : 17-07-1998.

Between :-

1. J.Paul
2. J.I.Raj Paul

... Applicants

And

1. The General Manager,
S.C.Railway, Rail Nilayam,
Sec'bad.
2. The Sr.Divisional Personnel Officer,
SC Rlys, Guntakal, Ananthapur District.
3. The Divisional Railway Manager,
S.C.Rlys, Guntakal, Ananthapur District.

... Respondents

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Counsel for the Applicants : Shri P.Krishna Reddy

Counsel for the Respondents : Shri J.R.Gopal Rao, SC for Rlys

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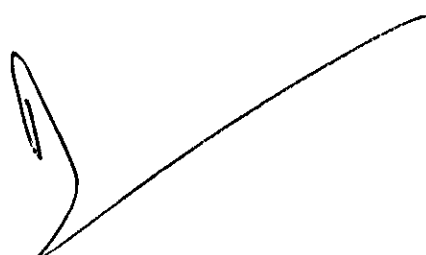
CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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.... 2.



(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri Bhimsingh for Sri P.Krishna Reddy, counsel for the applicants and Sri J.R.Gopal Rao, standing counsel for the respondents.

2. The applicant in this OA while working as Head Clerk was transferred to Pakala to work under Loco Foreman, Pakala on Administrative grounds. It is stated that a charge memo SF-5 was issued as he had delayed payments of bills but that charge sheet was dropped by order dt.11-1-93. In spite of that the applicant was not transferred back to Guntakal and continued in Pakala. He was brought to Guntakal while he was working as OS Gr.II on 1-5-96 i.e. just three months before his retirement on superannuation i.e. on 31-7-96. When he was in Guntakal, earlier to his transfer he was in occupation of Type-I quarter No.959/B. When he was posted to Pakala he had not vacated the quarter. The applicant submits that he has a big family and his wife is also working in^a Municipal School^{at} in Guntakal. Hence he could not vacate quarter but he was paying the penal rent for the period when he was away from Guntakal.

3. It is stated that the second applicant who is the son of the applicant is also a railway employee working as Khalasi in Diesel Loco Shed, SC Railway, Guntakal. The applicant states that the house allotted to him should be regularised in the name of his son as per rules. As that was not done, this OA is filed praying for a direction to the respondents to regularise the Railway Quarters No.959/B Type-I in favour of the Applicant No.2 who is Khalasi bearing/possessing token No.877 in Diesel Loco Shed, Guntakal and for a

consequential direction to the respondents not to take any action to evict applicant from the quarters.

4. When an employee is transferred out of a station then rule stipulates that the quarter if any allotted and occupied by him should be vacated within a certain period unless permission was obtained from competent authority to retain quarter at the old station of posting paying usual rent. The applicant has not produced any such permission before us. He only submits that his transfer itself was unwarranted. He was paying penal rent and hence the quarter deemed to have been in his position during the period he was away from Guntakal on transfer. On that basis the applicant No.1 also requests for regularisation of quarter in the name of applicant No.2. When the applicant himself has got no right to retain the quarter when he was away from Guntakal, the question of regularising the quarter in the name of applicant No.2 after his retirement does not arise. There is no such rule to regularise the quarter occupied by an employee in the name of his son who is also a Railway employee when the quarter itself is not legally allotted to the transferred employee. Hence on that ground itself OA is liable to be dismissed.

5. A retired employee can request for regularising the quarter legally allotted to him to his ward on his retirement provided certain conditions are fulfilled. The first and foremost condition is that the ward of the employee should forgo his/her HRA at least six months before the date of retirement of the employee in whose name the quarter stands. We enquired from the standing counsel for the respondents whether that rule was followed in this case. The learned

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~~standing~~ counsel for the applicant submits that the applicant No.2 had represented to the respondents to stop the payment of HRA. But for some unknown reasons the same was paid to the applicant No.2 and the same was also accepted by him. Even that letter requesting the respondents to stop the HRA was not produced before the Bench at the first instance. A rejoinder has been filed in this OA. Even in this rejoinder, no proof has been produced to the effect that a representation requesting the respondents to stop payment of HRA was made by applicant No.2. In Annexure-IV to the OA a letter dt.25-11-95 purported to have been sent to respondent No.2 for stopping payment of HRA. ^{intended} When we enquired from the counsel for the applicant the proof of service of that letter on respondent No.2, the applicant could not submit the same. However, an endorsement made by the Jr.Engineer, Diesel Loco Shed was produced before the Bench for perusal. If such a proof exists, the applicant should have insisted for stopping of payment of HRA then itself. Even if HRA was paid to him inspite of his request to stop the HRA, then he should have refused to take the money and if forced on him, he should have debited it back to the Railways. In fact, the applicant No.2 enjoyed the amount. Under these circumstances we feel that the applicant has not made out any case for allotment of the quarter to applicant No.2 i.e. his son on the basis of the existing rules.

6. But I feel that the applicant No.1 had undergone lot of financial difficulties due to his transfer and also because of the fact ^{that} he had paid penal rent when he was away from Guntakal. Hence a lenient view may have to be taken in allotting a quarter to his son if required as an out of turn measure. Hence a relaxation may be

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necessary to be given in this case. The applicant, if so advised may submit a detailed representation for allotment of a type-I quarter waiving rules as out of turn allotment to his son named applicant No.2 herein. If such a request is received by respondent No.3, the same should be considered very sympathetically in view of the reasons stated above.

7. In the result, the OA is disposed of with the above observation. Eviction proceedings if any to be initiated should pend for another a month from the date of receipt of this judgement. No costs.


(R. RANGARAJAN)
Member (A)

Dated: 17th July, 1998.
Dictated in Open Court.

avl/

DA.1202/97

Copy to:-

1. The General Manager, S.C.Railway, Raül Nilayam, Secunderabad.
2. The Sr. Divisional Personnel Officer, S.C.Rlys, Guntakal. Ananthapur Dist.
3. The Divisional Railway Manager, S.C.Rly, Guntakal, Ananthapur.
4. One copy to Mr. P.Krishna Reddy, Advocate, CAT., Hyd.
5. One copy to Mr. J.R.Gopal Rao, SC for Rlys, CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

30/7/98
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II COURT

TYPED BY

CHECKED BY

COMPILED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PRAKASH : M(J)

DATED:

17/7/98

ORDER/JUDGMENT

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

in

C.A.M.C.

1202/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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| केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH 27 JUL 1998 हैदराबाद न्यायपीठ HYDERABAD BENCH |
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