

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-5.

O.A. NO. 142/94
T.A. NO.

DATE OF DECISION 16-2-96

All India Guards' Council and Ors.

(PETITIONER(S)

Mr.M.Chanda and Mr.A.Deb Roy

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (s)

Mr.B.K.Sharma

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgment ? Ys
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman

M.G.Chaudhary

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.142/94

Date of Order: This the 16th Day of February 1996.

JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN
SHRI G.L.SANGLYINE, MEMBER(A)

1. All India Guards' Council,
N.F.Railway, New Bongaigaon
through Shri Debopam Basu Mazumder
its Branch Secretary.
2. Shri Dilip Kumar Dutta,
Guard/Goods at New Bongaigaon.
3. Shri Rajib Lochan Brahma.
Guard(Goods), New Bongaigaon.
4. Shri Shyamal Mazumdar,
Guard/Goods at New Bongaigaon. Applicants.

By Advocate Mr.M.Chanda and Mr.A.Deb Roy,

-Vs-

1. Union of India
(Through General Manager, N.F.Railway,
Maligaon, Guwahati-11.
2. Divisional Railway Manager,
(Chairman, Housing Committee),
Alipurduar Division, N.F. Railway.
3. Area Manager,
N.F.Railway, New Bongaigaon. Respondents.

By Advocate Mr.B.K.Sharma.

O R D E R.

CHAUDHARI J(VC):

1. The O.A. has been filed by All India Guards' Council, N.F.Railway through its Secretary alongwith three others who are Guards/goods. No individual relief in favour of any Guard has been sought but what the Council prays is that the respondents may be directed to implement the Railway Board's directions contained in its letters dated 30-8-69, 30-10-76 and 6-8-79 and the respondents may be further directed that quarters vacated by running staff

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are allotted to running staff as it has been decided by the Railway Ministry that out of the quarters set apart for essential staff a separate pool of quarters should be maintained for the running staff, the number of quarters in such a pool should be proportionate to the strength of running staff as against non-running essential staff.

2. From Annexure 2 it appears that by letter dated 30-8-69 the Railway Board had clarified that while allotting existing quarters Railway should ensure that all quarters vacated by essential running staff are ordinarily allotted to such staff. By the letter dated 30-10-76 upon a review of the existing practice the Railway Ministry decided that out of the quarters set apart for essential staff, a separate pool of quarters should be maintained for the running staff, that the number of quarters in such a pool should be proportionate to the strength of running staff as against non-running essential staff and any quarters that fall vacant in the pool should be allotted to running staff only in their turn in the separate priority register maintained for that purpose. There is no dispute on the point that the total number of quarters in essential pool was to be 60% of the total quarters.

3. The Housing Committee of the N.F.Railway, Maligaon reviewed the policy of allotment of quarters in consultation with the General Secretaries of NFREU and NFRMU as on going exercise from May 1987 onwards on 23-8-88/9-2-89 and a new policy was adopted. A copy of that policy is at Annexure 1 to the written statement. Under that policy

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[Signature]

for the purpose of allotment of quarters the staff will be categorised as essential and non-essential. A list of staff considered essential on the railway is appended. The Guards are included in the essential staff to the extent of 100%. In view of that policy the respondents have stated that under the new policy the running staff has been merged with the essential categories of staff and the guards cannot have a separate pool. However they are entitled to the allotment of the quarter strictly on the basis of seniority in the ratio 2:1(Essential and non-essential). It is however stated that the separate pool of quarter for Guards has been merged with the essential pool by the Divisional Housing Committee and the Guards have been treated 100% essential and included in the list of essential category. It is pointed out that out of 111 Guards and 17 Assistant Guards, 85 Guards and Assistant Guards have been provided Railway quarters and only 23 Guards and 4 Assistant Guards were on waiting list. That was the position on 1-9-95 when the written statement was filed. It has also been clarified by the respondents that after the separate pool of Guards was merged with essential pool and as the Guards quarters exceeded more than 60% of quarters the excess quarters were allotted to other staff for balancing.

4. The applicants have not challenged the new policy issued on 9-6-89 by the N.F.Railway on the basis of the tripartite discussions held on 23-8-88 and 9-2-89. They have not even referred to the said policy. Since prior to that policy the earlier letters of the Railway Board had

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recognised the category of quarters for running staff. The applicant's counsel does not seem to agree but that question does not survive after the new rules. Mr. Chanda the learned counsel for the applicant stated that the obliteration of separate category of essential running staff and creation of category of essential staff under new rules was inconsistent and contrary to the policy of the Railway Board. He also submits that the new rules do not appear to have been approved by the Railway Board and therefore these cannot prevail over the earlier directions of the Railway Board. In that sense according to Mr. M. Chanda the relief sought for directing the respondents to implement the policy of the Railway Board still survives and can be agitated. He also submits that possibly the applicants were not aware of the new 1989 rules when the O.A. was filed.

5. It appears to us difficult to accept that the applicants could not be aware of the new rules. Annexure R-1 goes to show that these rules were circulated with the approval of General Manager to all Divisional offices of N.F. Railway. More importantly these rules were framed in consultation with the two Workers Unions. It is not the case of the applicants that there is a separately recognised Union and it was required to be consulted. Ordinarily they ought to be deemed to be represented by the Unions who were parties to the discussion and formulation of the new rules.

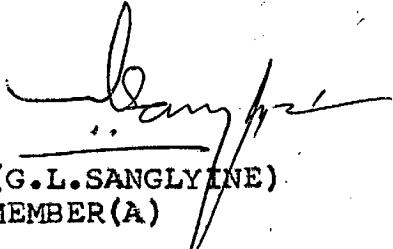
✓ The inconsistency pointed out by Mr. M. Chanda between by the new rules and earlier policy of the Railway Board cannot therefore be gone into. Moreover no individual instance of any Guard who has been denied the allotment of the quarter under the new rules is subject matter of the application.

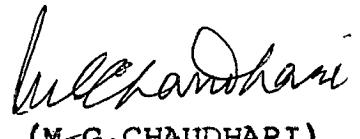
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For that matter if any Guard or staff has any occasion to agitate a grievance suffered by him under the new rules it has to be first agitated before the competent authority of the Railway and it cannot be gone into by the Tribunal straightaway particularly when the matter touches the administrative policy. In the circumstances we can only leave the applicant council and/or any of its members to do so by filing a representation if so advised to the competent authority and to the Railway Board projecting their grievance in respect of revised quarter allotment rules 1989 ^{and} we have no reason to assume that if any such representation would be filed then the respondents ^{not} _^ will deal with the same ^{and} _^ suitably inform the result thereof to the concerned applicants.

The O.A. is accordingly disposed of. No order as to costs.


(G.L.SANGLYINE)
MEMBER(A)


(M.G.CHAUDHARI)
VICE-CHAIRMAN