

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.210/00729/2019

Dated this Wednesday, the 23rd day of October, 2019

CORAM: R.VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

Shri Ajay Basudev Bose, Age 47 years, Ex-Head Booking Clerk, Central Railway, Lonavala, residing at Central Railway, Flat No.51/4, Agarwad, Behind Sion Hospital, Sion (W), Mumbai 400 022. ... *Applicant*
(By Advocate Shri Vicky Nagrani)

VERSUS

1. Union of India, Through the General Manager, Central Railway, Headquarters Office, CSMT, Mumbai 400 001.
2. The Divisional Railway Manager, Central Railway, DRM Office, Annex Building, Ground Floor, CSMT, Mumbai 400 001.
3. The Addl. Divisional Railway Manager (Infra), Central Railway, DRM Office, Annex Building, Ground Floor, CSMT, Mumbai 400 001.
4. The Sr. Divisional Commercial Manager, Central Railway, DRM Office, Annex Building, Ground Floor, CSMT, Mumbai 400 001. ... *Respondents*

ORDER (Oral)

Per : R.Vijaykumar, Member (A)

Heard Shri Vicky Nagrani, learned counsel for the applicant.

2. This application has been filed on 22.10.2019 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“8(a). This Hon'ble Tribunal may graciously be pleased to quash and set aside the impugned Show-Cause Notice dated 18.10.2019 with all consequential benefits.

8(b). This Hon'ble Tribunal may further be pleased to direct the Respondents to allow the Applicant to retain the quarters during pendency of the appeal and until the appeal is finally decided by the Appellate Authority.

8(c). Costs of the application be provided for.

8(d). Any other and further reliefs as may be deemed appropriate in the facts and circumstances of the case be granted."

3. The applicant was in the service with the respondents until he was proceeded against in disciplinary proceedings and he was removed from service in orders of the respondents dated 31.05.2019 for which he tendered appeal on 20.06.2019 and has sought personal hearing.

4. The learned counsel for the applicant submits that the applicant was served a copy of the disciplinary authority's order's dated 31.05.2019 on 13.06.2019 and within a week thereof, he preferred a statutory appeal on 20.06.2019 which is still pending for consideration before the Competent Appellate Authority.

5. The learned counsel for the applicant submits that the Appellate Authority has fixed the date of 25.10.2019 for personal hearing requested by the applicant. The applicant further submits that since the orders of removal passed by the Disciplinary Authority have not attained finality in view of pending appeal before the Appellate

Authority, there is no reason or justification for the respondents to issue impugned eviction order until 18.10.2019 (Annexure A-1) requiring the applicant to vacate the accommodation within seven days i.e. on 25.10.2019.

6. We find force in the learned counsel for the applicant that till the order of removal has attained finality, there is no reason or justification to require the applicant to vacate the accommodation. On inquiry, the learned counsel has not confirmed if any rental and other dues in regard to the accommodation remain unpaid.

7. In the aforesaid facts and circumstances, we are of the considered view that if the OA is disposed of with a direction to the respondents to not give effect to the impugned orders dated 18.10.2019 until the final decision is taken by the authority on the statutory appeal, no prejudice is caused to the respondents.

8. In the facts and circumstances, the present OA is disposed of with a direction to the respondents to not give effect to the impugned order dated 18.10.2019 until the

final decision taken by the authority on the disciplinary orders dated 31.05.2019.

However, it is made clear that the applicant shall cooperate in the disposal of the statutory appeal by appearing before the Appellate Authority on the date specified by the Appellate Authority in the matter.

9. It is further made clear that in case the applicant's statutory appeal fails, the applicant will be liable for rent/licence fee in respect of the accommodation in question in accordance with the relevant rules.

10. In view of the aforesaid terms, the OA is disposed of accordingly, No costs.

(R.N. Singh)
Member (Judicial)

(R. Vijaykumar)
Member (Administrative)

kmg*

*SD
24/10/18*