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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8709 OF 2006

1] Union of India,)
through General Manager)
Western Railway,)
Headquarters Officer,)
Churchgate, Mumbai – 400020)
)
2] The Secretary, Railway Board)
Rail Bhawan, New Delhi 110 001.)Petitioners.

Versus

1] Chandra Kumar Sharma)
Deputy Chief Mechanical Engineer,)
HQ Office Churchgate, Mumbai)
)
2] Maharashtra Tourism Development)
Corpn Ltd. Express Tower, 9th Floor)
Nariman Point, Mumbai 400 021)
through its Managing Director).... Respondents.

Mr. Suresh Kumar, Advocate for the Petitioners.

Mr. C.M. Jha, Advocate for Respondent No.1.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 8th January, 2019

ORAL JUDGMENT: (*Per B.R. Gavai, J.*)

1] The Union of India has approached this Court being aggrieved by the judgment and order passed by the learned Central Administrative Tribunal (“CAT”) in Original Application No.525 of 2006, thereby allowing the Original Application filed by the present Respondent No.1.

2] Parties in the present case, for the sake of convenience, are referred as they were referred to in the Original Application.

3] Applicant was Deputy Chief Engineer on the Establishment of the Petitioners.

4] It appears that the Maharashtra Tourism Development Corporation Limited (“MTDC”) and the Petitioners – Indian Railways, had jointly undertaken the programme of starting a luxury train. Since for the said work, expertise of the Railways was necessary, the Applicant was sent on deputation to MTDC. At the relevant time, Applicant was residing in the railway quarters allotted to him.

Applicant therefore requested the Railway Authorities for retention of his quarters. Respondent No.2 – MTDC also requested the Railway Board to allow him to reside in the said accommodation. On 29/05/2003, Applicant was informed that his retention of quarter beyond two months, would be treated as unauthorized and he was directed to vacate the same. Subsequently, proceedings under Section 4 of the Public Premises (Eviction) Act were also initiated against the Applicant. In the meantime, Applicant was repatriated from deputation and joined the Railways.

5] On 15/03/2004, Applicant had represented to the Petitioners/Railways as well as Respondent No.2 – MTDC for settling the issue with regard to payment of rent, if Applicant's accommodation was to be treated as unauthorized. Since the said issue was not settled, Petitioners/Railways determined the amount of Rs 4,78,290/- as and by way of rent payable by the Applicant and started deduction of the amount of Rs 6000/- per month towards recovery. Being aggrieved thereby, the Applicant has approached before the CAT. The learned Tribunal allowed the Original

Application and quashed and set aside the impugned order and also directed the Petitioners/Railways to refund the amount, if any, recovered from the Applicant. Being aggrieved thereby, the present Petition.

6] Mr. Suresh Kumar, the learned Counsel appearing on behalf of the Petitioners, submits that in view of Regulations framed by the Railways with regard to official accommodations, the employees who are sent on deputation to other Railway and non-Railway PSUs/Societies already established for more than five years, would be permitted to retain the Railway quarters only for a period of two months on normal rent and after that, they will be treated as unauthorized occupants. He submits that the learned Tribunal has not considered the Rules in its correct perspective and as such, the impugned order is liable to be set aside.

7] The scope for interference in the order of learned Tribunal by this Court while exercising the power of judicial review would be very limited. Unless it is found that the view taken by the Tribunal is either

perverse or impossible, interference would not be warranted.

8] The facts, as they emerge from the material placed on record and the impugned order, would reveal that, it was an arrangement between the Petitioners/Railways and MTDC to send the Applicant to MTDC on deputation so that the work undertaken by MTDC and Indian Railways for starting luxury train can be done effectively. It is not that the Petitioner on his own volition opted to go on deputation to MTDC. It was on account of joint venture between the Petitioners/Railways and Respondent/MTDC, he was required to go on deputation. It is further to be noted that Respondent/MTDC also requested the Indian Railways to permit the Applicant to continue with the accommodation since MTDC was not having accommodation even for its employees. It has further been found by the learned Tribunal that relaxation was also granted by Indian Railways for similarly situated employees, who were sent on deputation to MRVC and IRCTC. It cannot therefore be said that the view taken by the learned Tribunal is either perverse or impossible to warrant interference.

9] Petition is therefore rejected. Rule is discharged. However, in the facts and circumstances of the case, there shall be no order as to costs. Needless to state that, interim protection, if granted, stands vacated. Recovery, if any, made from the Applicant shall be refunded to him within a period of three months from today.

(N.J. JAMADAR, J.)

(B. R. GAVAI, J.)