

22.06.2021
SL No.6 & 13
Court No.16
(gc)

WPCT 23 of 2021

**Amarjeet Arora & Anr.
Vs.
The Union of India & Ors.**

And

WPCT 29 of 2021

**Sandipa Arora
Vs.
The Union of India & Ors.**

(Via Video Conference)

Mr. Goutam Kumar Das,
Mr. Dipanjan Datta,
Mr. Atanu Basu,
...for the Petitioners.
Mr. Subhankar Chakraborty,
...for the Respondents.

The subject matter of challenge in the two writ petitions is a common order dated 7th January, 2021 passed by the learned Tribunal. The writ petitioners are related to each other, however, the writ petitioner No.1 is the father of the writ petitioner No.2. The dispute arose with regard to the allotment of staff quarter to the writ petitioner No.2 who is presently claimed to be a 'Group-C' Staff working under the Railway authorities. The categorization of the quarter was the issue before the Tribunal. The matter was earlier remanded back to the authorities concerned to take a decision as to the type of quarter to which the petitioners would be entitled under the relevant guidelines. The Railway authorities disposed of the matter by a reasoned

order dated 9th September, 2013 whereby the said authority observed that the father and daughter both submitted the representation dated 21st June, 2012 and 2nd April, 2012 respectively for regularization/allotment of existing Railway quarter No.359, Unit-II, Type-III at South Side/Kharagpur in favour of Miss Sandipa Arora on out of turn basis. However, Miss Sandipa Arora was not eligible for Type-III Railway quarter as per Railway Board's instruction contained in South Eastern Railway Estt Srl No.14/2011 under father and son rule. However, inadvertently, letter dated 8th May, 2012 was issued by Senior DCM/KGP who was not competent to regularize Railway quarter under father and daughter rule on out of turn basis. Subsequently, the authorities concerned did not agree to regularize the said Railway quarter on out of turn basis as it was found to be the Railway Board's instruction contained in South Eastern Railway Estt Srl No.14/2011. In view thereof, the Railway authority declined to regularize her father's Railway quarter in her favour. Further one Type-II railway quarter No.T-3/C-3, Unit-3 at Traffic settlement/KGP on out of turn basis has been allotted to the daughter with the approval of the competent authorities by a letter dated 31st May, 2013 but Miss Sandipa Arora did not occupy the allotted quarter till date. This was the subject matter of challenge before the Tribunal.

Mr. Dipanjan Datta, learned Counsel appearing on behalf of the petitioners has relied upon a Circular dated

25th October, 2018 which is related to preference for allotment of railway accommodation to the eligible spouse/ward of deceased/retiring allottee as per entitlement or one type higher in sharing of accommodation cases. It is submitted that in view of the said Circular, the daughter is presently entitled to a one type higher accommodation than what she is presently enjoying as the allotment made to her on the basis of a 'Group-D' employee. The contention of the Railway was, however, that it was a compassionate appointment and at the time when she was given the appointment as a 'Group-D' she was entitled to Type-I. However, by reason of the fact that her father was occupying Type-II accommodation, father and daughter were asked to surrender the then existing accommodation and shift to Type-I accommodation.

Presently the petitioner No. 2 is working as Commercial Clerk (Group C) and is entitled to a higher type accommodation. In view of the fact that as on date, if the Circular dated 25th October, 2018 and 27th August, 2019 are applicable to the present petitioners and the petitioner No.2 is not willing to avail the one type higher accommodation to which she is presently entitled the Railway authorities while re-allotting a suitable quarter to the petitioner No.2 shall take into consideration such circulars and make suitable allotment of staff quarter to the petitioner.

The impugned order is modified only to the aforesaid extent. The entire exercise should be completed within a period of eight weeks from date.

The entitlement to payment of DCRG and Post-Retirement Complementary Passes as directed by the learned Tribunal, however, shall remain untouched and all such benefits should be extended to the applicant No.1 as soon as he vacates the Government accommodation upon re-allotment being made by the Railway authorities in terms of the order of the Tribunal which stands modified by this order.

The Railway authorities shall not take the penal rent from the petitioners in view of the facts and circumstances of this case. However, in the event this order is not complied with by the petitioners in spite of re-allotment of a quarter, the Railway authorities shall be entitled to realize penal rent from the petitioner No.1.

With the aforesaid observation, the writ petitions being WPCT 23 of 2021 and WPCT 29 of 2021 stand disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)