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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12 OF 2021

Rajiv D. Sharma

...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. V.A. Nagrani i/b. Mr. Ramakant Patil for the Petitioner.

Mr. T.J. Pandian with T.C. Subramanian for Respondents.

CORAM : K.K. TATED &
R.I. CHAGLA, JJ.
DATE : 11TH MARCH, 2021

ORDER :

1. Heard learned Counsel for parties.
2. Rule. Rule made returnable forthwith.
3. By this Writ Petition under Article 226 of the Constitution of India, the Petitioner is challenging the order dated 28th July, 2020 and 6th November, 2020 passed by the Director Establishment (General), Railway Board rejecting the Petitioner's application for retention of railway quarter H - 23, Badhwar Park, Mumbai for 59 days.

4. Learned Counsel for the Petitioner submits that by reading of order dated 6th November, 2020 shows that the Respondent rejected the same only on the ground that the individual cases cannot be considered by the Railway Board. He submits that the Respondent - Board earlier decided the individual cases on their application. To that effect he relied on the order dated 24th November, 2020 Exhibit G page 35 and order dated 8th June 2018 Exhibit H page 36. He further submits that there is clear cut discrimination between the parties. Hence, the said order is required to be set aside with direction to the Respondent Board to decide this application on its own merits.

5. On the other hand, learned Counsel for Respondent - Board vehemently opposed the Writ Petition. He submits that in view of the circular dated 16th March, 2004 issued by the Railway Board on the basis of the judgment of the Delhi High Court in CWP No.5057 of 1999, they decided not to consider the applications from individual persons. Therefore, there is no question of entertaining the present Writ Petition.

6. When this Court pointed out to the learned Counsel for Respondent that even after 16th March, 2004 the date of

circular, the Respondent – Board decided the application filed by the individual persons on its own merits. At that time, learned Advocate for the Respondent – Board submits that let the board be directed to decide the Petitioner’s application dated 2nd August, 20219 on its own merits. He further submits that they have no objection to set aside the orders dated 28th July, 2020 and 6th November, 2020. In view of this, by consent of both parties, following order is passed:-

a) The orders dated 28th July, 2020 and 6th November, 2020 passed by the Respondent – Board are set aside.

b) The Respondent – Board is directed to decide the Petitioner’s application dated 2nd August, 2019 for retention of railway quarter H – 23, Badhwar Park, Mumbai for 59 days on its own merits as early as possible.

c) Writ Petition stands disposed of with these directions.

d) No order as to costs.

e) Parties to act upon authenticated copy of this Order.

[R.I. CHAGLA J.]

[K.K. TATED, J.]