

13.01.2026
Item No.24
Ct. No.1
PG

WP.CT. 281 of 2024
Sashi Kanta Choubey
Versus
Union of India & Ors.

Mr. Subrata Kumar Dutt.....for the petitioner

Mr. Kumaresh Dalal

Mr. Asit Kr. De.....for the respondents

PER, SUJOY PAUL, ACJ.:

1. Sri Subrata Kumar Dutt, learned counsel appears for petitioner and Mr. Kumaresh Dalal, learned counsel for the respondents appears.
2. Heard on admission.
3. This petition filed under Article 226/227 of the Constitution takes exception to the order of Central Administrative Tribunal (for short '**tribunal**'), Kolkata Bench, Kolkata dated 11.08.2023 passed in OA 350/00960/2022, whereby Original Application (for short '**application**') filed by the petitioner/applicant has been dismissed.
4. In short, learned counsel for petitioner narrated the facts by contending that petitioner joined the department on 01.06.1984. He got Government accommodation in the year 1996. On 09.03.2016, petitioner's daughter got appointment in railways. On 26.03.2018, the petitioner preferred an application before respondent no. 5 for

allocation of quarter, where he was residing with his daughter. On 27.03.2018, another request letter was sent by petitioner seeking permission to enjoy the quarter for four months after his retirement by paying the normal rent.

5. On 28.06.2018, the request letter of petitioner's daughter was sent to respondent no. 5 for allotment of the said quarter, where she was allegedly residing with her father. The petitioner retired on attaining the age of superannuation on 31.03.2018. He admittedly, vacated the accommodation on 14.11.2020. The petitioner preferred an application under the RTI Act, 2005 asking for reason as to why his Death-cum-Retiral Gratuity (for short '**DCRG**') has been withheld. In turn, by communication dated 11.04.2022 (Annexure-'P13'), the appellate authority informed that he unauthorisedly occupied railway accommodation beyond the permissible period and accordingly, the requisite rent is recovered through his Gratuity. Criticising this action, he filed OA 350/00960/2022. The tribunal rejected the said application by impugned order.
6. Learned counsel for petitioner submits that as per Railway Board Circular No. Estt. Srl. No. 233/87 dated 21.08.1987, the competent

authority is empowered to allot even a higher accommodation to the son/daughter of the retiring railway employee. The Railway Board by further decision dated 05.04.2018 decided to direct the concerned authorities to consider issuing comprehensive guidelines on various points including “Eligibility for registration of Staff in Rs. 1800 GP for Type II House”. It is argued that on the strength of these orders, the petitioner’s daughter was entitled to continue in a higher accommodation i.e. Type II than the accommodation of her in Type-I because she was in Rs. 1800 GP.

7. Learned counsel for petitioner submits that the department has not disclosed in the RTI information aforesaid about the breaking up of the amount decided to be recovered from **DCRG**. It is submitted that COVID broke up in 2021 and as per the Railway Board Circular dated 26.07.2021 (Annexure-‘P11’), the officers/staff could have continued in the railway accommodation beyond permissible time considering the prevailing pandemic or otherwise. Heavy emphasis is laid by learned counsel for petitioner on the pandemic situation and the expression “**or otherwise**”.

8. Learned counsel for railway administration supported the impugned order.
9. No other point is pressed by learned counsel for the parties.
10. The facts so narrated before the tribunal shows that although petitioner and his daughter preferred applications for allotting the quarter beyond four months, the permission to occupy/continue in the quarter beyond retirement was confined only for a period of four months on payment of normal rent. Thereafter, by communication dated 02.07.2019, the petitioner's request to continue with the Government accommodation beyond four months was specifically rejected. Pertinently, this rejection order dated 02.07.2019 was not called in question before the tribunal.
11. As per section 21 of the Administrative Tribunals Act, 1985, this rejection order dated 02.07.2019 could have been challenged within a period of one year i.e. upto 02.07.2020. The petitioner vacated the Government accommodation on 14.11.2020. Learned counsel for petitioner took plea of COVID pandemic to justify the delay in vacating the accommodation. We do not see any merit in the said contention for the simple reason that his prayer to continue in the Government

accommodation was rejected on 02.07.2019 when pandemic was not there. In absence of challenging this order, there was no justification to continue in accommodation.

12. This order is not only beyond the pale of limitation, it was not even under challenge. Thus, without assailing the said rejection order, no relief was due to the petitioner before the tribunal.

13. A careful reading of the basic circular dated 21.08.1987 shows that it is only an enabling provision. The allotment has to be done in specific by the competent authority. In the instant case, the permission to continue in railway accommodation was only for a period of four months from 31.03.2018. Thereafter, petitioner had no right whatsoever to continue in railway accommodation.

14. The petitioner could not point out any pleading from his original application to show that the amount so quantified under the head of penal/damage rent was either arbitrary or without any basis. In absence thereof, we are unable to hold that administration has committed any error in quantifying the said amount for recovery.

15. Excuse of COVID pandemic etc. cannot fetch any result. For the reasons stated above i.e. after rejection order dated 02.07.2019, petitioner's continuance in accommodation became unauthorised. The tribunal, in our opinion, has taken a plausible view. It does not warrant any interference.
16. Admission is declined. Petition is **dismissed**.
17. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, ACJ.)

(PARTHA SARATHI SEN, J.)