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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2354/2002

New Delhi, this the 29th day of May, 2003

Hon'ble Sh. Shanker Raju, Member (J)

Ajay Kumar Rana
S/o Sh. R.L.Rana
M/W Khalasi
Northern Railway, Diesel Shed
Tughlakabad, New Delhi. ...Applicant

(By Advocate Sh. K.N.R.Pillai)

V E R S U S

Union of India through

1. The General Manager
Northern Railway
Baroda House, New Delhi.
2. Senior Divisional Mechanical
Engineer, Northern Railway
Diesel Shed, Tughlakabad,
New Delhi.

...Respondents

(By Advocate Sh. R.L.Dhawan)

O R D E R (ORAL)

Shri Shanker Raju,

Heard both the ld. counsel for the parties.

2. Applicant impugns respondents order dated 17-7-2001 as well as 16-8-2001, where his allotment has been cancelled and he has been directed to vacate the accommodation and simultaneously recovery of the penal rent amounting to Rs. 1334/- has been started from his salary w.e.f. 25-7-2001. He has impugned these orders with a prayer to quash the same with all consequential benefits.

3. Ld. counsel of the applicant states that in 1979 he had preferred a representation for allotment of govt. accommodation and on his

application, respondents had acknowledged that his name stand at Sl. No. 13 of the priority list. On the basis of which by a notice dated 4-6-2001 in the wake of JHC meeting held on 14-3-2001, he has been allotted Govt. accommodation of which he took possession.

4. Subsequently it transpired from the priority list that the name of the applicant never figured in the priority list and the concerned officer who had written a Note on 4-6-2001 had been proceeded against in minor penalty proceedings and was ultimately punished.

5. Ld. counsel of the applicant Sh. Pillai contended that as the civil consequences were ensued upon the applicant a resonable opportunity is manadataory. In absence of any enquiry held by the respondents, the action is illegal and supports his contention on a decision of Apex Court in D.B. Gupta Vs. State of Haryana (SCR 1973 (2) 323) as well as Sayeedur Rahman Vs. State of Bihar (SCR 1973 (2) 1043. It is further stated that the respondents have failed to produce the original application preferred by him in the year 1979.

6. On the other hand, Sh. R.L.Dhawan, ld. counsel for the respondents contended that as the name of the applicant did not exist in the priority list, he has no right to be allotted govt. accommodation. It is on the basis of fraud committed by one of the

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officers of respondents, applicant had managed to get the accommodation which on further enquiry found fictitious and accordingly the concerned officer has been punished. Moreover relying upon the decision of Apex court in State of Haryana Vs. R.K.Mann 1997 (SCSLJ 257), it is contended that on a mistake committed by the Govt., one has no vested right to avail ensued benefits.

7. I have carefully considered the rival contentions and perused the material on record. It is settled principle of law that a wrong order passed by the Govt. can be rectified and no right can be claimed against it.

8. From the perusal of the record, it transpired that the name of the applicant is not in the priority list which was the basis for allotment of govt. accommodation but for the comments given by the concerned officer, the applicant would not have been allotted accommodation. As the accommodation has been allotted against the rules, applicant has no right to remain in possession.

9. Moreover, in so far as natural justice is concerned, show cause notice was served upon the applicant on 17-7-2001 and he was asked to furnish reply positively by 21-7-2001. From the record that reply has been found to be filed on 21.8.2001. Meanwhile, respondents, in absence of reply of the applicant, imposed a penal rent upon the applicant

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which does not suffer from any legal infirmity. In my considered view, the applicant though has been accorded an opportunity has failed to avail the same within the stipulated period.

10. As the applicant has not right to be allotted accommodation, recovery imposed upon the applicant is perfectly in accordance with law and in consonance with the decision of Full Bench in Ram Poojan Vs. UOI (Vo.1 3 FB decisions ATJ). OA is dismissed. No costs.

11. However, by way of indulgence, two weeks time is accorded to the applicant to vacate the accommodation on his undertaking. so.

S. Raju

(SHANKER RAJU)
MEMBER (J)

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