

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

QA NO.1773/1999

New Delhi this day the 15th December, 2000

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Shri Kanda Swami, HSF/C&W,
T. No. 115/SSE,
Northern Railway/TKD
R/o Quarter No. 87D 4
Railway Colony,
Tuglakabad, Delhi Applicant
(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Union of India, through
The General Manager
Northern Railway,
Baroda House, New Delhi
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
DRM Office, Paharganj, New Delhi
3. The Senior Section Engineer/C&W,
Northern Railway, Delhi Division,
Tuglakabad, New Delhi
4. The Assistant Mech. Engineer (C&W)
DRM Office (NR),
Paharganj, New Delhi Respondents
(By Advocate : Shri R.L. Dhawan)

O R D E R (ORAL)

Shri S.A.T. Rizvi :

Heard the learned counsel on either side. The learned counsel for the respondents had sought adjournment on 10.11.2000 on the ground that he would bring relevant documents. He has not been able to do so. Looking at the facts and circumstances of the case, I do not think it is necessary to insist on the production of the aforesaid documents. The respondents have not filed any reply in spite of several opportunities given to do so in the past.

2. The learned counsel for the applicant states that the applicant was proceeded against departmentally on the charge of sub-letting of the Govt. quarter allotted to him by the Railways and based on the enquiry made, the applicant has been punished by an order dated 18.3.1999. By the aforesaid order his salary has been reduced from the stage of Rs.5,000 to Rs. 4875 for a period of one year. Drawing my attention to the report of the Enquiry Officer, the learned counsel has argued that since the Enquiry Officer has not found the applicant guilty of sub-letting without the disciplinary authority disagreeing with the same, it is not possible to cancel the allotment of the Govt. quarter in accordance with the relevant Rules.

3. I notice that, in this case the applicant has already been punished as stated above by reduction in his pay, even though the charge of sub-letting was not found proved by the Enquiry Officer. In view of this, trying to cancel the allotment of quarter on the same charge of sub-letting would, as I see, attract Article 20 (2) of the Constitution whereunder it is provided that "no person shall be prosecuted and punished for the same offence more than once". Cancellation of accommodation on the charge of sub-letting may not be a punishment in the formal sense as it may not be one of the punishments listed in the relevant Rules, but it is a punishment all the same and for the same offence, and taking the aforesaid punishment of reduction in pay into account, the aforesaid provision of the Constitution is clearly attracted.

2

4. In the circumstances, the order dated 3.5.1999 (Annexure A-2) cancelling the allotment of Govt. quarter together with the consequential order dated 13.7.1999 cannot stand legal scrutiny. Accordingly, the aforesaid impugned order is quashed and set aside with all the consequential benefits flowing therefrom.

20



(S.A.T. RIZVI)
MEMBER (A)

(pkr)