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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.787/95

(7)

New Delhi, this the 6th day of July, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Shri Hari Shanker,
r/o Q.No.DSI/568,
South Estate, Ordnance Factory,
Muradnagar. ... Applicant

By Advocate: Shri A.K. Bhardwaj

Vs.

1. Union of India
through the
Secretary,
Ministry of Defence Production,
Central Secretariate, South Block,
New Delhi.
2. The Director General,
Ordnance Factories,
No.10 - Auckland Road,
Calcutta.
3. The General Manager,
Ordnance Factory,
Muradnagar, Distt. Ghaziabad,
U.P. ... Respondents

By Advocate: Shri V.S.R. Krishna,

ORDER (ORAL)

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The applicant ^{was} ~~has been~~ proceeded departmentally
and ~~has been~~ punished by an order of removal from
service dated 24.3.95. He ^{was} ~~has~~ allotted
Q.No.DSI/568, South Estate, Ordnance Factory,
Muradnagar. The applicant has filed an appeal
against that order of removal from service and
that appeal has not yet been disposed of. The
applicant has also been served with a notice

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dated 28.3.95 by the General Manager, Ordnance Factory, Muradnagar to vacate the said premises against which the applicant has filed this O.A. praying for the grant of the reliefs that the aforesaid order dated 28.3.95 be quashed and the applicant be allowed to continue to retain the quarter till the disposal of the appeal.

The respondents contested this application and opposed the grant of the relief. The respondent's counsel has also filed the counter but the applicant's counsel does not want to file the rejoinder. The only objection taken by the respondent's counsel is that there are rules regarding allotment of residences (Ordnance Factories Accommodation for and Civilians in Defence Services) Rules, 1993/sub clause (5) in the exigency of the service in the administration ~~interest~~ a person removed, dismissed or otherwise dealt with in the service can be evicted from the allotted premises.

I heard the learned counsel for the applicant and Shri V.S.R. Krishna for the respondents. The learned counsel for the applicant has relied on a decision of the Principal Bench given by Hon'ble Shri S.R. Adige, Member in May, 1995 in O.A.No. 512/95 in which the retention of the quarter was allowed till the final disposal of the appeal

and the revision preferred is disposed of.

The fact is that when an order of termination from service is passed in departmental enquiry then the relationship of master and servant ceases. When this relationship ceases the terminated employee also ceases his right of retaining the allotted premises on the prescribed licence fee. In this case however, the order of removal is yet before the Appellate authority and till it becomes final the termination of contract of service will be in liquid state. If the appeal is allowed, the original contract of service stands revived to be governed by the service rules. In view of this, the interest of the applicant has to be protected to the extent that he can retain the accommodation on the normal licence fee till the appeal against the removal from service is finally disposed of by the competent authority. The respondent's counsel pointed out that the applicant

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has preferred an appeal but not through the proper channel. The applicant's counsel however, disputed this fact. He further stated that this issue raised by the respondent's counsel is not a subject for consideration in this O.A. The applicant however, cannot take the benefit of this order by filing an appeal not in accordance with law and he should strictly comply with the law on the subject otherwise the respondents will have a liberty to move for vacation of this order of retention of the accommodation if exploited by the applicant.

The O.A. is, therefore, disposed of as said above with the direction that the applicant Shri Hari Shanker can retain the premises under allotment of Q.No.DSI/568, South Estate, Ordnance Factory, Muradnagar on payment of regular licence fee under the rules till the disposal of appeal/revision. Cost on parties.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J)