

Central Administrative Tribunal  
Principal Bench, New Delhi.

(12)

OA-960/94

New Delhi this the 20<sup>th</sup> Day of October, 1995.

Hon'ble Shri B.K. Singh, Member(A)

Shri J.L. Jain,  
S/o Sh. Sunder Lal Jain,  
R/o SC-6, Basant Lane,  
New Delhi-55.

Applicant

(through Sh. O.P. Khokha & Sh. S.C. Luthra)

versus

1. Union of India,  
through Secretary,  
Govt. of India,  
Ministry of Railways,  
Rail Bhavan, New Delhi.

2. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

3. Divl. Supdtg. Engineer(Estate),  
Northern Railway,  
D.R. M. Office,  
New Delhi.

Respondents

(through Sh. H.K. Ganguani, advocate)

ORDER:

delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A. No. 960/94 has been filed against  
these orders:-

- (a) Order No. 15960/7-1307/89 dated 6.6.95 issued by Divl. Supdtg. Engineer/Estates, Northern Railway, New Delhi; &
- (b) Order No. 15960/7-1307/89 dated 5.4.95 issued by Divl. Supdtg. Engineer/Estates, Northern Railway, New Delhi

The reliefs prayed for in the O.A. are:-

- (i) To quash and set aside the impugned

(B)

notice/letter dated 6.6.1995 (Annex. A-1A) as illegal, unconstitutional and without jurisdiction as the tenancy of the applicant cannot stand cancelled w.e.f. 1.11.1994;

- (ii) To quash and set aside the impugned notice/letter dated 5.4.1995 vide Annexure A-1 as illegal, unconstitutional and without jurisdiction as the applicant can by no stretch of imagination be termed as unauthorised occupant w.e.f. 1.11.1994;
- (iii) To direct the respondents to permit the applicant to retain the said quarter beyond 1.3.1995 for a period of 4 months not at double the licence fee but the normal licence fee as he has not been paid the arrears and relevant benefits;
- (iv) To direct the respondents to further allow the applicant to retain the said quarter at normal licence fee till such time the applicant is paid his dues; and
- (v) To direct the respondents to expeditiously arrange the payment of all arrears including retiral benefits and to award penal interest on delayed payments after maximum permissible period.

On notice the respondents filed their reply contesting the application and grant of reliefs prayed for.

Heard the learned counsel for the parties and perused the record of the case.

The learned counsel for the applicant argued that the order of the Divl. Superintending Engineer regarding vacation of the quarter and charging of damage rent are illegal and arbitrary. The Railway rules prescribe a period of 4 months for retention on request on payment of normal licence fee after superannuation and for another 4 months on medical grounds or on grounds of education of children and on request. payment of double the licence fee. It is admitted that the applicant did not make this request on time. and this is also evident from the record. The rule position is very clear. The applicant on superannuation has to vacate the quarter within the permissible period

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

OA / TA / TA / CCP No. \_\_\_\_\_ 19.

APPLICANT(S)

COUNSEL

VERSUS

RESPONDENT(S)

COUNSEL

Date	Office Report	Orders
	<p>✓ 30/6/95  OA 960/95  MA 1634/95  MA 1664/95</p>	<p>Present:- 1. Shri S C.Luthra alongwith Shri O.P.Khokha counsels for the applicant.</p> <p>2. Shri H.K.Gangwani counsel for the respondents.</p> <p>The applicant is retired from the Railway service w.e.f. 31st October, 1994 and he continues to retain the quarter allotted to him on the pretext that the retirement benefits have not been paid to him. Retirement benefits cannot be connected with the tenancy as laid down by the Hon'ble Supreme Court of India in the case of UOI Vs. Shiv Charan reported in 1989 (1) L.T.C. page 129. However, the proceedings under P. &amp; P. Act are continuing by the respondents but the counsel for the applicant states that the electricity and water supply be not disconnected and the applicant shall pay the charge on demand towards the electricity and water along with arrears and only that condition this interim <sup>on</sup> will continue till 4th July, 1995. The respondents may file the reply by the date</p>

raised the question of not being dispossessed and the matter was heard and an order was passed on that misc. application. This is annexure R-1 of the counter-  
reply. It was an issue directly and substantially decided by the Hon'ble Chairman wherein an order clearly indicates that the prayer made in that MA-1017/95 in CP-343/94 in OA-55/93 was the same i.e. the respondents should be directed not to dispossess the applicant from the government accommodation. After hearing the rival contentions, the Hon'ble Chairman said that a railway servant is required to vacate the government accommodation within a specified period after he retires from service. The applicant admitted before the Hon'ble Chairman that he had retired from service. The misc. application was rejected by the Hon'ble Chairman after hearing the rival contentions of the parties. Though the applicant desired that his observations should not go on record, the Hon'ble Chairman recorded that contention also and placed the same on record. This prayer, therefore, is clearly barred by the principles of resjudicata and the respondents are well within their right to recover the damage rent/penal rent as per extant rules from the date the applicant is unauthorised occupant of the government accommodation. As and when he vacates the quarter, he will get the D.C.R.G., P.R. contributions which are withheld and kept in cash for adjusting the rent/damage rent/electricity/water charges etc. The application is dismissed as barred by principles of resjudicata but without any order as to costs.

(B. K. SINGH)  
MEMBER(A)