

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

32  
O.A. No. 351 of 1996

New Delhi, dated *the 2<sup>nd</sup> April*

1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Virender Kumar,  
S/o late Shri Jagannath,  
R/o 846/16, New Colony,  
Sonepat,  
Haryana.

... APPLICANT

(By Advocate: Shri Prabhū Kañt)

VERSUS

1. Union of India through  
the Chairman,  
Railway Board,  
Rail Bhawan,  
New Delhi-110001.
2. The Divisional Superintending  
Engineer (Estate),  
Northern Railway,  
O/o the Divl. Railway Manager,  
State Entry Road,  
New Delhi.
3. Shri J.C. Sharma,  
Inspector of Works (Estates),  
O/o the D.R.M.,  
Northern Railway,  
State Entry Road,  
New Delhi.

... RESPONDENTS

(By Advocate: Shri P.S. Mahendru)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' letter dated 31.1.96 (Ann. A colly.) as well as respondents' letter dated 5.1.96 (Ann. A Colly.) ordering recovery of penal license fee for alleged unauthorised subletting of Railway Qr. No. C-29/D, Lajpat Nagar, New Delhi.

2. Admittedly the aforesaid Quarter ~~was~~ <sup>stated</sup> allotted to applicant. On 14.4.94, <sup>when</sup> a surprise check was made in that house, ~~was~~ one Shri Rajinder Singh and his wife were found living there. The inspection note was prepared and got signed by Shri Rajinder Singh and two members of the Railway Union. The inspection team was headed by Shri J.C.Sharma from the office of DSE (R-2). On the basis of this inspection note respondents cancelled the allotment of the house w.e.f. <sup>vide</sup> 14.4.94, letter dated 8.9.94 (Ann. A-4) and directed applicant to vacate the said quarter as it had been found to be unauthorisedly sublet and in the possession of Shri Rajinder Singh, failing which eviction proceedings would be initiated against ~~him~~ <sup>applicant</sup> under the PP (EUO) ACT.

3. Against the said action, by respondents applicant approached the Tribunal in O.A. No. 1941/94. The Tribunal after hearing both parties disposed of that O.A. by judgment dated 3.11.95. In Para 5 of that judgment the Tribunal held that the fact of subletting appeared to be correct, but the same had not been to Shri Rajinder Singh but to one Shri Rana who had produced documents to show that he had been getting letters at that address and had also been paying rent to applicant. The inspection report therefore did not appear to be correct to the extent that it named Shri Rajinder Singh as the sublettee and not Shri Rana. Accordingly the Tribunal quashed the

cancellation order dated 8.9.94 (Ann. A-4) as well as the eviction orders and directed respondents to start fresh proceedings in which applicant as well as Shri Rana were to be impleaded as parties to ascertain the truth of the matter. Applicant was given two weeks to place the full facts before the Estate Officer, who was directed to go into the matter in depth and pass a speaking order within two months of receipt of a certified copy of that judgment.

4. Meanwhile applicant vacated the Quarter on 31.10.95.

5. Now by impugned letters dated 5.1.96, <sup>and 31.1.96</sup> on the basis of the cancellation order dated 8.9.94 (which stands quashed as noticed above) respondents seek to realise penal license fee from the applicant for the period 14.4.94 to 31.10.95.

6. Respondents do not deny that fresh proceedings were not initiated, but contend that as applicant did not file the representation within the prescribed period of two weeks and he had meanwhile vacated the quarter on 31.10.95, before the judgment dated 3.11.95 in O.A. No. 1941/94, no action was required to be taken on his representation.

7. When the order dated 8.9.94 (Ann. A-4) stands quashed by the Tribunal's judgment dated 3.11.95 in O.A. No. 1941/94, and nothing has been shown to me to indicate that the said judgment

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has been stayed, modified or set aside, respondents' impugned letter dated 5.1.96 and 31.1.96 seeking to make recoveries of penal license fee on the basis of that order dated 8.9.94 cannot be sustained in law.

8. Accordingly this O.A. succeeds and is allowed to this extent that the impugned letters dated 31.1.96 and 5.1.96 are quashed and set aside, leaving it open to respondents to proceed in the matter in accordance with law. No costs.

*Andrea*  
(S.R. ADIGE)  
VICE CHAIRMAN (A)

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