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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

D.A.No.1263/94

3, A  
New Delhi, This the 11th Day of August 1994

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Miss Mani Mala Singhal  
Head Clerk  
'G' Branch  
Northern Railway  
Headquarters Office  
Baroda House  
New Delhi.

Applicant

By Shri S . S . Maine, Advocate

Vs

Union of India: Through

1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Divisional Superintending Engineer(Estate)  
Northern Railway  
D.M.O. Office, State Entry Road  
New Delhi.

..Respondents

By Shri R L Dhawan, Advocate

ORDER

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. The applicant while functioning as Headclerk in General Branch, Northern Railway submitted an application dated 8.10.92 for three months leave without pay from 14.10.92 to 14.1.93 as she wished to visit Australia for three months on a personal trip. This leave was sanctioned. A further application dated 1.1.93 stating that due to personal reasons she wished to extend her leave for another three months from 15.1.93 to 15.4.93 was also submitted by her. It is the case of the applicant she has been held up in Australia due to sickness.

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2. The applicant had been allotted Railway Quarter sometime in 1987. However, by a letter dated 6.4.94 she was advised that she was absent from 15.1.93 and ~~in~~ <sup>in</sup> unauthorised occupation of railway quarter ~~in~~ with effect from 16.1.93. She was also advised to vacate the quarter within 10 days failing which eviction proceedings under section 190 of the Railway Act 1989 were to be initiated against her. This OA has been filed for quashing the above order as well as the later notice issued on 5.5.94 asking the applicant to vacate the railway quarter.

3. The learned counsel for the applicant argues that the applicant is yet in service and no disciplinary proceedings on account of unauthorised absence or initiated mis-conduct has been/against the applicant. It is his case that the respondents are trying to put the cart before the horse. The applicant had been sending the leave applications supported by medical certificate and yet eviction proceedings have been initiated though there are no rules permitting the respondents to evict a railway employee from railway quarter when the person is yet in service.

4. The learned counsel for the respondents referred to the reply filed and stated that after grant of leave for 3 months upto 15.1.93 the applicant first approached the respondents on 1.1.93 requesting for extension of leave by another 3 months from 15.1.93. This letter of the applicant dated 1.1.93 (Copy at Annexure R-3) had not contained postal address of the applicant in Australia. The leave applied by applicant was regretted by the competent authority. The next communication on behalf of the applicant was received from her father on 1.3.94 and contained an application by the applicant requesting for further leave from 17.1.94 to 16.4.94. For the intervening

from 16.4.93 to 16.1.94 no leave application of the applicant was received by the respondents. In any case no extension of leave as applied for was sanctioned by the respondents. At the time of request for leave for the period from 17.1.94 to 16.4.94 a medical certificate dated 17.1.94 recommending leave for a period of 3 months had been attached. Subsequently, a letter was received from the applicant dated 21.5.94 requesting for extension of leave upto 15.11.94. This also stated that the applicant would be submitting all medical certificates at the time of joining. The extension of leave prayed for was not sanctioned.

5. The respondents have referred to instructions regarding retention of railway accommodation issued by Railway Board RBE No.8/90 dated 15.1.90. The learned counsel for the applicants referred to para 2 of the letter which reads as under:

"The Ministry of Railways would also like to emphasise that benefit of retention of railway accommodation by employees on occurrence of various events should be allowed only to the extent permissible under the rules/extent instructions and that no special cases should be made out for any relaxation."

Annexure to this letter brings out various events and one such even relates to leave ex-India. Para regarding leave ex-India is reads as under:

Para 12 Leave ex-India

An employee on leave ex-India not exceeding 180 days may be permitted to retain the quarters on payment of normal rent/flat rate of licence fee, rent for the entire period, provided the entire period of leave or any portion thereof is spent outside India and the competent authority certifies that the employee will be reposted to place of

posting on expiry of the leave period."

It is the case of the respondents in terms of the above paragraph, applicant had forfeited the right to continue in the Railway accommodation beyond 15.1.93 after which there was no leave sanctioned to her. Accordingly the eviction proceedings initiated are in order.

6. The above stand was contested by the learned counsel for the applicant who interpreted para 12 quoted above to mean that the period of 150 days is only with regard to payment of normal rent and instructions do not authorise eviction proceedings.

7. Having heard both sides, I note that the applicant was on sanctioned leave until 15.1.93 and no medical certificates were produced beyond this. The first time a medical certificate was produced relates to sickness beyond 17.1.94. Even in her own application dated 24.5.94 she has stated that all medical certificates would be produced at the time of joining, though in the same letter of 24.5.94 she has stated that she had been sending medical certificates on regular basis. The respondents have averred in the reply that no leave application for the intervening period between 16.4.93 to 16.1.94 was received by them. Neither in the CA nor in the rejoinder, any proof of medical certificate submitted for the period prior to Jan 94 has been produced. Hence I am not convinced that the applicant was on medical leave and had been submitting medical certificates to cover periods beyond 15.1.93. Her leave beyond 15.1.93 not having been covered by proper sanction, the Railway authorities are correct in holding her posting as unauthorised from 16.1.93. As regards the contention that para 12 to Annexure to Railway Board's letter of 15.1.90 does not authorise eviction proceedings

I am not convinced of the same. Para 2 of the said letter clearly brings out that the benefit of retention should be allowed only for periods for the various events stipulated and as per the extent permissible. For every such event the allowable period has been specified. For example, in case of retirement it has been stated that a railway employee may be permitted to retain railway accommodation for a period of four months on payment of normal rent..... In the case of resignation/dismissal/renunciation the employee is permitted to retain the railway accommodation for a period of 1 month only on payment of normal rent. At the end of such allowable period, any retention automatically becomes unauthorized and deemed cancellation should be presumed. This is the general position even as per SR 317. In the circumstances, the action taken by the respondents in issuing the impugned letters dated 5.5.94 and 6.4.94 cannot be faulted. However, the learned counsel for the applicant also referred to para 7 of the Annexure to Railway Board's letter dated 16.1.90. As per this an employee on medical leave may be permitted to retain the quarter for the full period of leave on payment of normal rent/flat rate of licence fee/rent. I have already held that the applicant in this OA had not submitted any medical certificate beyond 16.1.93 and hence the benefit of this para cannot be invoked in her favour. Under the circumstances the OA is dismissed. No costs.

3/8/94  
(P.T. THIRUVENGADAM)  
Raoor (A)

LCP