

(18)

Central Administrative Tribunal
Principal Bench

O.A.No.2367/2000

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 28th day of May, 2002

Jai Pal Singh
s/o Sh. Ramraj Singh
H.S.Fitter (T.No.287)
r/o Railway Quarter No. 24-L
Railway Colony
Tughlakabad
New Delhi.

... Applicant

(By Advocate: Shri M.K.Bhardwaj)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.

2. The Sr. Section Engg. (C&W)
Northern Railway
Tughlakabad
New Delhi.

3. The Divisional Railway Manager
Northern Railway
Delhi Division
DRM Office
New Delhi.

... Respondents

(By Advocate: Shri D.S.Jagotra)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard the parties.

2. Applicant impugns respondents' orders dated 12.11.1999, 11.1.2000 and 1.8.2000, wherein the allotment of Government accommodation has been cancelled and he has been directed to vacate accommodation and to give vacant possession and as well as he is liable to pay a panel rent.

3. It is contended by the learned counsel for applicant that in pursuance of disciplinary proceedings initiated against him on the ground of subletting, the inquiry officer has not found him guilty of the charge of subletting, as such the orders passed by the respondents are liable to be quashed and set-aside. By referring to the counter reply of the respondents, it is stated that it is for the first time he had come to know that the disciplinary authority has disagreed with the findings of the inquiry officer and even without complying with the minimum principles of natural justice, imposed upon him a major penalty, which has not been referred even in any of the orders passed by the respondents, which resulted him grave prejudice and denial of a reasonable opportunity. On placing by a decision of the Co-ordinate Bench of this Tribunal in Shri Kanda Swami Vs. Union of India & Others, OA 1773/1999 decided on 15.12.2000, it is contended that the cancellation of a Government accommodation though not treated as one of the punishment envisaged under relevant rules but yet keeping in view of the punishment has already been imposed, i.e., reduction in pay, the cancellation of the accommodation and recovering penal rent upon the applicant, is ^{conary to} ~~against~~ the principle of double jeopardy and is against Article 20((2) of the Constitution of India.

4. On the other hand, learned counsel for respondents contended that on the follow up action by the disciplinary authority has ~~has~~ disagreed and imposed the punishment and cancellation has been resorted to after giving a show-cause notice to the

applicant which does not suffer from any legal infirmity. As regards the major penalty ⁱⁿ charge sheet, it is stated that if he has any grievance pertaining to the major penalty, whether imposed after following the rules or otherwise, the remedy lies before the appropriate Bench/Court. In this case the Division Bench is competent to deal with the matters pertaining to major penalty.

5. I have carefully considered the rival contentions of both the parties and perused the material on record. As the applicant has been imposed upon a major penalty for subletting the Government accommodation, I do not see any illegality in the orders passed by the respondents. However, on perusal of the order passed by the disciplinary authority, I find that disciplinary authority has disagreed with the findings of the inquiry officer and imposed the punishment without following due process of law. But for this the remedy lies in the appropriate Bench, i.e., Division Bench of this Court for a major penalty, I do not find any merit in the present OA. However, keeping in view of the interest of justice, it is open for the applicant to assail his grievance, against the major penalty order and consequent action of cancelling his accommodation, before the appropriate forum/Bench in accordance with law. Respondents are directed, in the peculiar facts and circumstances of the case, not to give effect ^{to} the cancellation order, for a period of ten days from the date of receipt of a copy of this order.

7. OA is accordingly disposed of. No costs.

S. Raju

(Shanker Raju)
Member(J)

/rao/