

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

O.A. No.1770/1989. Date of decision: November 28, 1989.

Shri Ved Prakash Sharma .... Applicant.

Vs.

Union of India & Another ... Respondents.

Coram:

Hon'ble Mr. B.C. Mathur, Vice-Chairman (A).

For the applicant ... Shri P.L. Mimroth, Advocate.

For the respondents ... Shri C.N. Moolri, counsel.

JUDGEMENT

This is an Application under Section 19 of the Administrative Tribunals Act, 1985 filed by Shri Ved Prakash Sharma, Senior Pharmacist, Jagadhri Railway Hospital, Jagadhri (Haryana) against the impugned order dated 10.7.1989 passed by the Divisional Superintending Engineer Estate & Chairman, Delhi Area Housing Committee, Northern Railway, D.R.M's Office, New Delhi, regarding cancellation and vacation of Railway Quarter No.C.3-A, Lajpat Nagar, New Delhi occupied by the applicant.

The case of the applicant is that he was transferred temporarily from Central Hospital, New Delhi to Jagadhri Hospital in Haryana, when he was occupying the Railway quarter at Lajpat Nagar, New Delhi. As a result of implementation of Cadre Restructuring Policy, the applicant's post of Senior Pharmacist was temporarily transferred to Jagadhri Hospital and <sup>he</sup> was posted against

that temporary post vide General Manager (P), Northern Railway's letter dated 12.9.1988.

In pursuance of this temporary transfer, the applicant is working at Jagadhri where he has not been provided any quarter. The orders dated 12.9.1988 pertaining to the temporary transfer of the applicant has neither been confirmed nor he has been transferred back to Delhi and he has been retaining the said quarter in Delhi.

The respondents have now served an eviction notice dated 10.7.1989 with imposition of penal rent etc. with effect from 1.6.1989. As the children of the applicant are studying in Delhi and his eldest daughter is suffering from Psychiatry problem, he is not in a position to vacate the quarter. The applicant has moved the Tribunal that he should not be compelled to vacate the Railway quarter occupied by him at Delhi as it is in contravention of Rule 401(6) of the Indian Railway Establishment Code Vol.I. The Railway Board's letter dated 17.12.1983 has laid down statutory principles in regulating cases of temporary transfer in matter of retention of Railway accommodation, and as such, the applicant has a fit case for favourable consideration.

It was stated by the learned counsel for the respondents that the applicant was allowed to retain the Railway quarter till 30.5.1989, and the impugned order

has been passed on 10.7.1989. The applicant has not made any representation against this and has come to the Tribunal straightaway.

After hearing the learned counsel of both sides, I feel that this is a fit case where the applicant should move the competent Authority in the first instance and exhaust his remedies before approaching the Tribunal.

As he is transferred to Jagadhri on the basis of implementation of Cadre Restructuring Policy and the same has been categorised as 'temporary transfer', the competent Authority may take <sup>the</sup> view on this matter. The applicant first make a representation within a fortnight and he will not be dispossessed from the quarter till his representation is disposed of by the competent Authority. He may be charged rent for the house according to rules. With these observations, the Application is disposed of.

There will be no order as to costs.

*B.C. Mathur*  
(B.C. MATHUR)  
VICE-CHAIRMAN (A).  
28.11.1989.