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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

O.A. 415/89.

DATE OF DECISION: January 16, 1990.

Shri Suraj Ram .... Applicant.

Shri K.K. Khetan .... Advocate for the Applicant.

V/s.

The General Manager,  
Northern Railway and  
Others .... Respondents.

Shri P.S. Mahindru .... Advocate for the Respondents.

COURT: Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reports of local papers may be allowed to see the judgement? yes.
2. To be referred to the Reporter or not? yes.
3. Whether his lordship wishes to see the fair copy No. of the judgement?
4. To be circulated to all Benches of the Tribunal? No.

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985, in which the applicant has challenged order dated 14.12.1988 (Annexure 'F' to the O.A.), by which he was informed to vacate Quarter No.112-A/E, Thompson Road, New Delhi, within 10 days, and has prayed that the above impugned order be quashed and the respondents be directed to regularise/allot the above Railway Quarter to the applicant with effect from 1.3.1981 or at least from the date when his juniors S/Shri Gopal Sharma and Desh Raj were allotted Railway quarters.

2. Briefly stated, the relevant facts are that the applicant was appointed as a casual labour under the Northern Railway from 5.9.1975 and was retrenched in early September, 1975. The respondents have, however, stated that he was retrenched on 10.7.77. He was reappointed as a casual Khalasi in September, 1977, but was discharged from service on 1.5.1981. He challenged his discharge from service in the High Court of Delhi under Civil Writ Petition

No.2110/84, which came on transfer to this Tribunal and was registered as T.A. No.263/1986. According to the decision dated 31.5.88 in that case, the discharge order dated 1.5.1981 was quashed and the defendants were directed to reinstate the applicant with effect from 1.5.1981 with all back wages. He was accordingly reinstated.

3. According to the applicant, he came in possession of Quarter No.112-A/E, Railway Quarters, Thompson Road, New Delhi and was living therein. Further, a sum of Rs.60/- per month was also realised from him. On his discharge on 1.5.1981, the respondents wanted to take back the possession of the quarter, but he continued to occupy it under the interim orders passed by the High Court of Delhi.

4. The applicant was screened for being made regular in 1978 and was found suitable for the same. He also underwent a medical examination, and according to him, he was made regular Khalasi with effect from 18.1.1980. The respondents have, however, denied that he had been made regular.

5. The respondents' case, in brief, is that the applicant was never made a Class IV employee and that he was working as a casual Khalasi till he was discharged in 1981. It is further stated that the quarter in question was never allotted to the applicant and that he has been in unauthorised occupation of the same. The recovery of Rs.60/- per month from the applicant is also denied. It is further stated that on discharge from service on 1.5.1981, the applicant became disentitled to allotment of Railway

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accommodation and that he will be allotted Railway accommodation in his turn, as and when available.

6. I have perused the material on record of this case and have also heard the learned counsel for the parties.

7. There is no doubt that the applicant was never allotted under any valid allotment letter the Railway quarter in question. He has not claimed that he was allotted this quarter. He has also not disclosed in this application as to how he came to be in possession of this quarter as stated by him in para 4 (vi) of the application. Similarly, he has not been able to show in this application that the respondents have realised from him a sum of Rs.60/- per month towards licence fee for this quarter from the date he took possession of the same.

8. The impugned order dated 14.12.1988 addressed to the applicant shows that he was required to vacate the Railway quarter in question on the ground of his having been discharged on 1.5.1981 and that as he had failed to do so, the tenancy of the said quarter stood cancelled with effect from 1.5.1981. In view of the plea of the respondents and the facts as stated above, the question of cancellation of tenancy will not arise. However, this impugned order does clearly show that it was issued in view of the discharge of the applicant on 1.5.1981. The applicant was directed to be reinstated vide the Tribunal's order dated 31.5.88 and as such the fact of discharge with effect from 1.5.1981 was not at all relevant. Moreover, on reinstatement, house rent has been deducted from his arrears from 1.1.1984 to 27.7.1988, vide Annexure 'J' to the rejoinder filed by the applicant. For all these reasons, the impugned order dated 14.12.1988 is not sustainable.

9. As regards the prayer for regularising or for allotment of Railway quarter No.112-A/E, Thompson Road,

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New Delhi with effect from 1.3.1981 or from the date when his juniors S/Shri Gopal Sharma and Desh Raj were allotted Railway quarters, it may be stated that the rationale of choosing the date of 1.3.1981 has not been disclosed and he has to take his turn as per the relevant rules. Though the respondents have denied in their reply that the applicant was made regular with effect from 18.1.1980, yet the letter dated 1.7.1988 from IOW/Estate, DRM's office, Northern Railway, New Delhi (copy at Annexure 'H' to the rejoinder) shows that the applicant was appointed as regular Khalasi with effect from 18.1.80 vide office letter No.1/EO/3/Pt. III dated 18.1.80 and he was allotted P.F. No.294303. The applicant has contended that S/Shri Gopal Sharma and Desh Raj were junior to him in the list of substitute/casual labourers working under A.E.N. (E)/AEN(EI) Delhi Kishanganj who had been declared suitable for regular Class-IV employment as a result of screening held on 7, 8, 9 and 22.11.1978 (Annexure 'B' to the application). The applicant's name in this list appears at Sl. No.171 while that of Gopal Pd Sharma and of Des Raj at Sl. No.186 and Sl. No.215 respectively. He has also filed a list showing the names of 20 workers working under IOW/Estate, DRM's office, Northern Railway, New Delhi in which quarters are shown to have been allotted to 19 persons and the applicant alone is shown as having not been allotted the quarter. His name appears at Sl. No.10 in the list, which is shown as a seniority list.

10. The respondents' case is that during the period the applicant remained out of service due to his discharge on 1.5.1981, persons eligible for allotment of Railway accommodation were duly allotted the same in their turn. These facts, therefore, do show that if the applicant had not been discharged from service, he would have become

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entitled to allotment of Railway quarter in his turn. Whether he is entitled to regularisation of the quarter which is in his possession or to allotment of another quarter is a matter on which the respondents have to take a decision in the facts and circumstances of this case.

11. In view of the above discussion, the impugned order dated 14.12.1988 issued to the applicant by the Chairman, Delhi Area Housing Committee, Northern Railway, New Delhi is hereby quashed. The respondents are directed to allot a Railway quarter to the applicant of the type to which he is entitled under the rules, or to regularise the Quarter in his possession, within one month of the receipt of a copy of this order, with effect from a date on which he would have become entitled to such allotment if he had not been discharged from service on 1.5.1981, or from the date on which his next junior was allotted a Railway quarter, whichever is earlier, and till then he will not be dispossessed from the quarter in his occupation, namely, No.112-A/E, Thompson Road, New Delhi. The allotment / regularisation of the quarter in the name of the applicant with retrospective effect is necessary with a view to assessing the normal licence fee payable by him for the period prior to the date of allotment / regularisation as above. For the period prior to the date of allotment / regularisation of the Quarter as per direction given above, the respondents would be free, if so advised, to take whatever action they deem proper in accordance with the rules.

12. The application is disposed of in terms of the above directions. Parties to bear their own costs.

(P.C. JAIN)  
19/1/90  
MEMBER (A)