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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 468
T.A. No.

1986

DATE OF DECISION 11.2.1987

Shri B.N. Chatterjee Petitioner

Shri S.K. Bisaria Advocate for the Petitioner(s)

Versus

The General Manager (Northern Rly.) Respondent

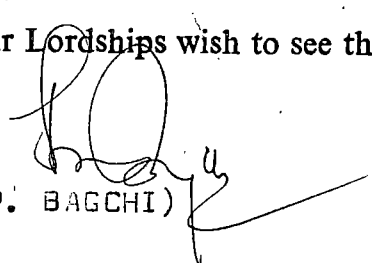
Miss Kumkum Jain Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H. P. BAGCHI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*


(H. P. BAGCHI)


(S. P. MUKERJI)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A.No.468/86

DATE OF DECISION:11.2.87

Shri B.N.Chatterjee . . Applicant

Vs.

The General Manager . . Respondent
(Northern Railway)

Shri S.K.Bisaria . . Counsel for Applicant

Miss Kumkum Jain . . Counsel for Respondent

CORAM

The Hon'ble Mr. S. P. Mukerji, Administrative Member

The Hon'ble Mr. H. P. Bagchi, Judicial Member

JUDGMENT

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In this case the Applicant has come up with the prayer ^{for the} ~~of~~ quashing of the ex-parte order dated 10.3.1986 (Annexure '1' to the Application) cancelling the allotment of quarter at C-6 E Railway Colony, Basant Lane on the ground of it is having been sublet. He has also prayed that till the disciplinary proceedings are completed no adverse action including imposition of penal rent and cancellation of allotment should be taken against the applicant. We have heard the arguments of the learned counsel for both the parties. Our attention has been drawn to the copy of the enquiry report dated 30.6.86 filed by the Respondents (Annexure '5' to the counter affidavit) which indicates as follows.

"As desired the Quarter No. C6/E was inspected.

I. Ration Card No. is 15411 (Duplicate) which was checked. The following names of family are written:

- i. Mr. S.N. Chatterjee
- ii. Mrs. -do-
- iii. Miss Chohi U/daughter
- iv. Deehauln U/son
- v. Miss Devi U/daughter
- vi. Sukhaular U/son

2. The telephone installed at the Quarter is in the name of Shri B.N. Chatterjee as clear from Bill dt. 12.6.1976.

3. There is no name board in the name of Tourist Corner at any wall of Quarter.

4. As enquired from Sh. A.P. Malik occupant of C6/B and Shri P.N. Oberoy of C3/C, they say that they are not in knowledge of any commercial office being run in C-6/E. As per them the house is never either subletted or used as commercial office by Shri Chatterjee."

AEN/E L

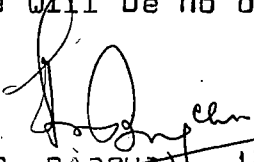
From the report of the Assistant Engineer as quoted above, it is evident that the quarter in question was neither subletted nor used for commercial purposes by the petitioner. This report was prepared as far back as in ~~January~~ ^{June} 1986 and there is no document before us to show that this report was ~~accepted~~ ^{accepted} ~~rejected~~ ^{accepted} ~~or relied upon~~ ^{accepted} by the respondents. We ~~accept~~ ^{accept} this report ex-facie and since the impugned order of 10.3.86 was passed on the basis of alleged sub-letting we quash the same. Since the factum of subletting or commercial use had not been proved, the question of recovery of market rent also does not arise. Accordingly, the application is allowed with the direction that the quarter should continue in the possession of the applicant as before subject to the

existing rules and orders and that no penal or
market rent should be charged from the applicant.

In so far as the disciplinary proceedings are
concerned the same may be expedited and finalised,
if possible, within the next two months in the

light of the report of the A.E. dated 30.6.86.

The application is disposed of accordingly.
There will be no order as to costs.


(H. P. BAGCHI) 11.2.87
JUDICIAL MEMBER


(S. P. MUKERJI)
ADMINISTRATIVE MEMBER