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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 1534/90

New Delhi this the 15th day of September, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Shri C.J. Roy, Member(J).

Smt. Sona Kalia,  
W/o Shri Narendra Kumar Kalia,  
Senior Clerk,  
Engineering Branch,  
Divisional Railway Manager's Office,  
Northern Railway,  
New Delhi.

..Petitioner.

By Advocate Shri B.S. Maine.

Versus

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

2. The Divisional Railway Manager,  
Northern Railway,  
S.E. Road,  
New Delhi.

3. The Divl. Superintending Engineer(Estate),  
Divisional Railway Manager's office,  
Northern Railway,  
S.E. Road,  
New Delhi.

..Respondents.

By Advocate Shri P.S. Mahendru.

ORDER (ORAL)

Shri N.V. Krishnan.

The applicant was employed as a Telephone Operator in the DRM's office, New Delhi. She registered herself with the concerned authority for the allotment of house on 27.7.1978. The house was allotted to her along with others by the Annexure A-3 order dated 23/27.11.1989. Her name is at Serial No. 19 where she is described as Telephone Operator, DRM's Office, New Delhi. As the quarter allotted as per Annexure A-3 was in Kishan Ganj, she wanted a change to Subzi Mandi. This was accepted by the Annexure A-5 order dated 15/22.1.1990. The applicant

was addressed in this memo as Clerk, Engineering Branch, Northern Railway, DRM's office, New Delhi. The applicant occupied this quarter. Subsequently, the respondents issued the Annexure A-I order dated 23.5.1990 by which the allotment of the quarter at Subzi Mandi was cancelled. It is stated in that memo that the applicant concealed the facts and has taken possession of Qr. No. T-51/4 at Subzi Mandi allotted to her as a Telephone Operator when she was working as Clerk in DRM's Office, New Delhi at the time of allotment and on the date of taking possession. The orders for allotting of Qr. No. T-51/4 at Subzi Mandi issued vide letter dated 15.1.1990 were cancelled with immediate effect. She was directed to vacate the quarter and by Annexure A-2 order dated 19.7.1990 she has been directed to pay penal rent, etc.

2. Aggrieved by this, the O.A. was filed to quash these impugned orders. When this application was admitted on 1.8.1990, ad-interim direction was issued restraining the respondents from disconnecting the electricity and water supply, etc and subsequently, by an order on 10.9.90, the respondents have been restrained from evicting the applicant. These directions continue till further orders.

3. The respondents have filed the reply opposing the O.A.

4. We have heard the learned counsel for the parties.

5. The counsel for the applicant submitted that the cancellation of the quarter is based on the consideration that she has concealed the facts relating to allotment whereas there has been no such concealment.

6. The learned counsel for the respondents submitted that in the matter of allotment of houses two categories are distinguished, namely, an essential category and non-essential category. The essential category, for obvious reasons, get a higher priority for allotment. When the

applicant registered a claim for allotment, she was a Telephone Operator and was, therefore, in the essential category. It is on the assumption that she continued to be a Telephone Operator and, therefore, in the essential category, that the Annexure A-3 order of allotment was made in her favour. However, the applicant had, well before that date, become a Clerk which falls under the non-essential category and, therefore, would receive a much lower priority. He contended that the applicant did not inform the authorities concerned for house allotment about this change in the circumstances, as a result of which the allotment was made by mistake. When this was discovered, the allotment was cancelled by Annexure A-3 order and order of eviction and orders regarding payment of penal rent were issued subsequently.

7. In the circumstances, the only question which we felt necessary to consider is whether the applicant who had changed from a Telephone Operator to a Clerk was required, in terms of the rules and instructions applicable to allotment of houses, to inform the authorities concerned for the allotment of houses that she had changed her employment from an essential category to a non-essential category. We also brought to the notice of the learned counsel for the respondents that, any rate, the respondents were not ignorant <sup>< of the change</sup> at the relevant time. When she asked for a change of quarter that was allowed and the orders in that respect were given to her addressing her as a Clerk, Engineering Branch, i.e. non-essential category post. The learned counsel for the respondents took time to produce rules and instructions in this behalf.

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8. When the matter came up today, the learned counsel for the respondents produced for our perusal a copy of the letter written to him by Divl. Suptdg. Engineering Estate, Northern Railway, New Delhi which does not contain anything which is not on record. In the circumstance, we have to conclude that there is no rule or instruction which obliges an employee to intimate the authority concerned about house allotment about the change of employment from an essential category at the time of registration to non-essential category on a subsequent date. If there is no such obligation, it is not proper for the respondents to allege, as has been done in the Annexure A-1, that the applicant has concealed the facts and has taken possession of the property. It is the duty of the respondents to take necessary steps. The <sup>date of</sup> registration of application determines priority. House allotments appear to be covered by some instruction, a copy of which has been produced by the respondents. It states, if an employee changes his category from essential to non-essential category, his name will be deleted from the register of essential category, but included in the register of non-essential category. In the latter register, he will be deemed to have applied for accommodation on the same date on which his application was registered in the essential category register. Therefore, these instructions contemplate such action being taken <sup>in obli</sup> suo motu by the respondents. There is no ~~allegation~~ on the part of the employee to take any action in this regard.

9. In the circumstance, we find that the Annexure A-1 order of cancellation is baseless. It is, therefore, quashed. Consequently, the Annexure A-2 order is also quashed. The application is allowed. It is directed

that the respondents shall not disturb the applicant from the house allotted by them. No costs..

(C.J. ROY)  
MEMBER(J)

(N.V. KRISHNAN)  
VICE CHAIRMAN(A)

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