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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A. No. 2095 of 1990

New Delhi, this the 4th day of March, 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman  
Hon'ble Mr B.N.Dhoundiyal, Member(A)

Dayal Das Lalwani  
Office of Superintending Surveyor  
of Works, New Delhi Zone-1,  
CPWD Room No.208(Wing-A)  
New Delhi. ... ... .... Applicant

( through Mr S.S.Tewari, Advocate).

vs.

1. Secretary,  
Ministry of Urban Development  
Nirman Bhawan,  
New Delhi.
2. Superintending Surveyor of Works,  
New Delhi Zone-1,  
CPWD, Nirman Bhawan,  
New Delhi.
3. Director of Estate,  
Nirman Bhawan,  
New Delhi. ... ... .... Respondents.  
( through Mr George Parkin, proxy counsel  
for Mr P.P.Khurana).

JUSTICE S.K.DHAON, VICE CHAIRMAN(Oral)

The communication of the Assistant  
Estate Manager to the Executive Engineer, Ahmedabad  
Central Division, C.P.W.D. Jawahar Saw Mill, (Ex.A)  
to the amended O.A. is being impugned in the  
present application.

2. A counter-affidavit has been filed to  
the original O.A. on behalf of the respondents.  
We permitted the applicant to amend the O.A.  
and we directed the respondents to file a reply  
to the amended O.A. Mr George Parkin, appearing  
on behalf of the counsel for respondents states that  
the respondents do not propose to file any reply  
to the amended O.A.

Sly

3. Admitted facts are these. On or before 30.8.1986, the applicant was posted as Junior Engineer at Bombay. On that day, he was transferred from Bombay to Gujarat. At Bombay he was allotted a Government accommodation, which continued under his occupation till ~~xxx~~ he either vacated the same on 10.6.88 or till he was ~~xxx~~ evicted therefrom on the said date.

4. The controversy centres round the payment of damages by the applicant on the alleged unauthorised occupation of the aforesaid occupation for the period from 1.9.1986 to 10.6.1988. It is also an admitted fact that the applicant remained on leave w.e.f. 1.9.1986 to 16.12.1987. The question whether the applicant remained on medical leave, is in dispute in this Tribunal. For reasons, to be given hereafter, we are not entering into this controversy in this Q.A.

5. It appears to be an admitted position that no opportunity was afforded to the applicant by the Assistant Estate Manager before issuing the impugned communication to the Executive Engineer. The applicant was required to be given an opportunity of hearing before the Assistant Manager formed the opinion that he is liable to pay damages. The Assistant Estate Manager, therefore, shall now give a reasonable opportunity of hearing to the applicant and examine the question as to whether, as stated by the applicant, he remained on Medical Leave w.e.f. 1.9.1986 to 16.12.1987.

After deciding this crucial question of fact, he shall apply the terms of S.R.317-B-11 to the facts of this case. Even if it is established before the Assistant Estates Manager, that the applicant remained on Medical Leave from 1.9.1986 to 16.12.1987, the Assistant

Estate Officer shall record a finding as to what is the amount of damages payable by the applicant from 17.12.87 to 10.6.88. Till the matter remains under consideration of the Assistant Estates Manager, the impugned communication shall remain in abeyance.

6. With these directions, the O.A. is disposed of finally but with no order as to costs.

/sds/

*B.N.Dhundiya*  
( B.N.Dhundiya )  
Member(A)

*S.K.Dhaon*  
( S.K.Dhaon )  
Vice Chairman