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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1736/93

New Delhi: 28th October, 1994

HON'BLE MR.S.R.ADIGE, MEMBER (A)

J.P.Nath,
s/o Shri Sukhan Nath,
Inspector of Works (MG),
Northern Railway,
Delhi Sarai Rohila

.....Applicant.

By Shri G.D.Bhandari, Advocate.

Versus

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

2. The Divisional Railway Manager,
Northern Railway,
Bikaner.

3. The Asstt. Engineer (AEN MG)
21, Hamilton Road,
Delhi

.....Respondents.

By Shri K.K.Patel, Advocate.

JUDGMENT

In this application, Shri J.P.Nath, retired Inspector of Works, Northern Railway, Sarai Rohilla, Delhi, has impugned the order dated 16.8.93 (Annexure-A1) cancelling the allotment of Quarter No.T-11/D, Pul Mithai on the charge of sub-letting, construction of jhuggis along with the wall of his quarter, ^{and in} collection of illegal money from the Jhuggis occupants.

2. From the materials on record, it appears that the allotment of the quarter was cancelled by the respondents, based upon findings in an investigation report that the applicant had sublet most of the portion of the quarter and had

constructed Jhuggis along with his wall and was collecting rent illegally from the occupants. The applicant has denied that he had sublet the quarter, or was illegally collecting rent from the occupants of the Jhuggis constructed along ⁱⁿ ~~with~~ the wall of the premises. He has contended that no show cause notice was given to him before cancelling the allotment nor were proceedings under the P.P.E. Act resorted to. He has stated that at no ⁱⁿ ~~such~~ time ⁱⁿ ~~he~~ was he associated with the enquiry, and the persons alleged to be his sub-tenants are actually residents of some other colony. He has further contended that his case is similar to that of one Shri A.N.Saxenaa, in which, by judgment dated 21.4.92, it had been held that the jhuggis on the premises had been in existence for a very long time and the employee occupying that quarter, was not responsible for any such unauthorised construction. It has also been averred that the allotment had been cancelled by an authority not competent to do so, and the letters referred to in the impugned order had not been supplied to the applicant. Reference has also been made to some internal correspondence between the Union Minister for Surface Transport and the Union Railway Minister, copies of which have also been placed on record.

3. The respondents in their reply have contested the application and have stated that the cancellation of the allotment of the applicant's quarter is legal, regular and does not violate the principles of natural justice.

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4. It appears that interim orders were passed on 26.8.93 restraining the applicant from dispossessing the applicant from the said quarter, which were extended from time to time and were made absolute till further orders on 27.10.93. Meanwhile, the applicant has superannuated on 31.5.94.

5. I have heard Shri G.D.Bhandari for the applicant and Shri K.K.Patel for the respondents. Shri Bhandari has invited my attention to letter dated 22.8.94 from the Divisional Superintending Engineer, Northern Railway, Bikaner, addressed to Asstt. Engineer, Northern Railway, Delhi informing him that the competent authority has permitted the applicant to retain the said quarter for a period of four months from 1.6.94 on normal rent. Shri Bhandari has argued that in view of this authorisation, the impugned order cancelling the allotment of the quarter must be held to be null and void.

6. Meanwhile, the respondents by their order dated 10.12.93 appear to have instituted an enquiry against the applicant under Rule 9 to the Railway Servants(Discipline & Appeal) Rules, and a charge sheet has been issued to the applicant.

7. This O.A. to quash the respondents' order dated 16.8.93, whereby the allotment of Quarter No. T-11/D, Pul Mithai had been cancelled and the applicant had been ordered to vacate the same, was filed on 24.8.93. Interim orders restraining the respondents from implementing the impugned orders dated 16.8.93, were passed on 26.8.93 which were extended from time to time and

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eventually made absolute on 27.10.93. Meanwhile, the applicant has superannuated on 31.5.94 and the period of four months from 1.6.94 to 30.9.94 during which he was permitted to retain the premises on normal rent has also expired. Under the circumstances, nothing survives in this application and the same is dismissed with this observation that while enquiring into the charge against the applicant under Rule 9(2) of the Railway Servants (Discipline & Appeal) Rules, 1968, the respondents will keep in view the contents of their own letter dated 22.8.94, which has not been controverted during hearing, allowing the applicant to retain the quarter beyond four months after his retirement, on normal rent.

8. No costs.

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(S.R. ADIGE)
MEMBER (A)

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