

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 551/93

199

T.A. No.

DATE OF DECISION 17.9.93

<u>Shri Raj Paul Singh</u>	Petitioner
<u>S/Shri RL Sethi, A Kalia</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Ms Sunita Rao</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. N.V.Krishnan, Vice Chairman(A).

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓

JUDGEMENT

(Hon'ble Shri N.V.Krishnan, Vice Chairman(A))

The applicant is an Assistant Station Master at Dayabasti Railway Station, Delhi and has been allotted railway quarter No.T-22-A Naya Bazar, Delhi. His grievance relates to the recovery of rent at penal rates for the period from 11-10-90 to 17-5-91 during which period the occupation of this house by him has been treated to be unauthorised.

2. This grievance arose in the following manner. The respondents made a surprise check of the premises of the above quarter and found that the applicant had sublet the quarter to Shri Krishan and his family violating the rules regarding allotment of quarters. Therefore, the allotment was cancelled with effect from 11-2-90 and he was asked to vacate the house, failing which the eviction proceedings will be initiated against him.

2.1 The applicant made a representation dated 26-3-91 (An.A-4) stating that he had accommodated Mrs.Vijay Saini a clerk under the Station Supdt. Delhi temporarily in this house to facilitate medical examination of her son as the hospital was near to his house. He states that he did this

on the request of Station Master, Delhi. He also intimated that Mrs. Vijay Saini has since left the quarter and gone to her own house on 3-1-1991.

2.3 This letter was forwarded by the Station Supdt. stating that the statement made by the employee is correct and that the house may be regularised in his name.

2.4 On receipt of this application the impugned order dated 17-6-91 (An.A-2) was passed. It is stated that when the quarter was checked on 17-5-91 no subletting was found. Therefore the earlier An.3 notice dated 3-12-90 was cancelled but the period of stay from 11-10-90 to 17-5-91 is treated as unauthorised and penal rent recovery was ordered to be made. *reduction*

2.5 The recovery has since been made by ~~taken~~ from his pay.

2.5 The applicant contends that there was no subletting and he has prayed as follows:-

- (i) Impugned appellate order dated 24-12-91 and penalty order dated 17-6-91 be set aside.
- (ii) Respondent should be directed to refund the recovery made from applicant on this account with interest.

3. The respondents have given a reply stating that the action taken by them is in accordance with para 17/1 of the Railway Establishment Manual which provides for penal recovery of the rent for subletting of quarter without permission.

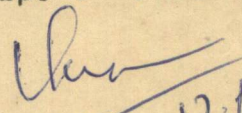
4. I have heard Shri A.Kalia learned counsel for the applicant and Ms Sunita Rao counsel for the respondents. They have reiterated the pleadings already made. The learned counsel for the applicant pointed out that in any view of the matter even if unauthorised occupation in the above circumstances is admitted for the sake of arguments it had come to an end on 3-1-90 which is certified to be correct in the endorsement of the Station Supdt. on the An.4 representation of the applicant and therefore recovery should be limited upto this date.

5. I have seen the record produced by the learned counsel for the respondent. It indicates that there

was a complaint of subletting by the applicant who also demanded higher rent from the sublettee. As a result of this dispute, there was altercation which required intervention by the local police. That apart, it is incredible that any one would oblige a totally stranger and permit her to reside in one ~~such~~ small house along with a child for a reasonably long time without any consideration. Therefore a reasonable inference can be drawn that there was a sublettee^{ing}. In the circumstances the cancellation of allotment is justified and until it is reallocated recovery of penal rent is also justified.

6. However, I find considerable weight in the argument of the applicant that the subletting had ~~rendered~~^{ended} on 3-1-1991. As the An.A-3 order dated 3-12-90 was cancelled by the An.A-2 order on the ground that subletting had come to an end, it is only fair to limit the unauthorised occupation to 3-1-1992 on which date the subletting had come to an end.

7. In the circumstances the applicant is entitled to some relief and therefore I dispose of this application partly allowing it by declaring that in so far as An.A-2 order is concerned the respondents are entitled to recover penal rent upto 3-1-91 only. The excess rent recovered from 4-1-91 to 19-5-91 in terms of An.A-2 order is quashed and the respondents are directed to refund to the applicant the excess recovery made in respect of the period from 4-1-91 to 17-5-91 within three months from the date of receipt of this order.


17.1.93
(N.V.KRISHNAN)
Vice Chairman(A)