

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 10/12 day of December, 1999

Original Application No. 977 of 1997

District : Chunar

CORAM :-

Hon'ble Mr. S. Biswas, A.M.

Suresh Chand Alias Suresh Chandra  
S/o Shri Biri Singh  
working as Driver under S.E. N.Rly,  
Chunar.

(Sri C.P. Gupta, Advocate)

..... Applicant

Versus

1. Union of India,  
Through General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. Divisional Superintending Engineer/-I,  
Northern Railway, D.R.M's Office,  
Allahabad.
3. Asst. Engineer, Northern Railway,  
Chunar.
4. Assit. Sectional Engineer (Works),  
Northern Railway, Chunar.

(Sri A.K. Pandey, Advocate)

..... Respondents

O R D E R

The applicant Sri Suresh Chand, a truck driver under Northern Railways, on his transfer from Hathras to Chunar, he was allotted Rly Quarter No. 138/A, Type-II at Chunar vide allotment order no. QR/97 dated 25-7-97 of the Sectional Engineer who issued the order. The applicant had since occupied the same on 25-7-1997 and till date continues there. This order of allotment was thereafter cancelled by the Asst. Engineer (Respondent no. 3) on 4-8-1997 illegally without assigning any reasons.

*S - Banerji*

2. The learned counsel for the applicant argued at length saying that for no fault of the applicant, the cancellation of the allotment after his occupation is illegal. He cited two cases, namely;

(i)

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and

(ii)

in support of his argument in as much as the applicant is concerned, he occupied the allotted quarter against valid allotment order and he was squarely eligible to it being a truck driver, who for doing strenuous duty required Govt. accommodation to fall back upon. He is eligible as a scheduled caste employee also.

3. The learned counsel for the respondents no.1, 2, 3 and 4 to the OA inter alia contested the allotment as unauthorised. It is only the Asst. Engineer (R-3) who is authorised to make allotment, not the Sectional Engineer, who issued the order illegally. The Sectional Engineer of Chunar had no authority. The order of allotment of quarter to the applicant was in flouting of the departmental instruction on eligibility and waiting list. The waiting list was bypassed in the said allotment order by the Sectional Engineer ~~for~~ <sup>in</sup> favour ~~to~~ <sup>of</sup> the applicant. Accordingly he has been charge-sheeted for flouting department's instructions to issue an irregular order to the applicant.

4. I have considered, the submissions of the both sides. The point at issue whether the occupation of departmental quarter by the applicant on his coming to Chunar against the said allotment order dated 25-7-1997 (Annexure-1) is illegal or not. The applicant is

S. Dutt,

eligible for a department's quarter early as a truck driver and also as an S.C. employee is not in dispute. The learned counsel for the respondents have questioned the allotment order of the Sectional Engineer as unauthorised, as he is not in the first place the authorised person to give such allotment. <sup>But</sup> ~~that~~ <sup>Sec.</sup> ~~Sec.~~ <sup>so</sup> ~~so~~ issues <sup>or</sup> such orders <sup>so</sup> passed by the ~~Sec.~~ <sup>Sec.</sup> ~~Sec.~~ Engineer cannot be disputed. If he had failed to take proper order from his superior authority, for that he is facing action, which is apt. As far the applicant is concerned, he is in no way at fault for having the said allotment in his favour. No such case or even hint has been made. The applicant cannot be estopped from accepting that as a valid order of allotment. As for the applicant is concerned, the acceptance of the order of allotment and occupying the quarter in question is legally valid. The impugned order of cancellation will have no effect. No orders on cost.

S. B. <sup>Sec.</sup>  
Member (A)

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