

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration T.A.No. 1285 of 1987 .

S.N.Mukharji

Applicant

vs .

Union of India & Others...

Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant who was working as Divisional Commercial Superintendent Northern Railway, Allahabad was allotted a Bungalow in the Railway colony. The applicant was retired from service on 31.8.1981. As per the allegation of the applicant/his only son died prematurely and the then Minister passed an order of re-appointment of his services at Allahabad in the month of November, 1981, but the Railway Board did not communicate the said order though the applicant continued to wait for it. The applicant also applied for retention of the said bungalow which was in his possession, but a letter was sent to the applicant in the month of November, 1981 for vacating the said bungalow. Proceedings were also started against the applicant for unauthorised occupation of the bungalow under the Public Premises Act and an ex-parte order was passed on 16.8.1983. The applicant filed an appeal against the ex-parte order and the appeal was allowed. But the applicant voluntarily gave the possession of the bungalow on 19.9.1983. The applicant applied for issue of post retirement railway pass in his favour as admissible under rules vide his application dated 26.10.83 but the respondents have refused to issue the pass on the basis of a circular of the Railway Board dated 24.4.1982. The said circular dated 24.4.1982 was in respect of unauthorised retention of railway quarters by retired railway officers and staff. The said circular provides that for every month of

unauthorised retention of railway quarters, one set of post-retirement passes should be disallowed and a show cause notice to this effect may be issued to the retired employee before disallowing the pass. Even if the said Railway Board's circular can be said to be applicable, but the same cannot be applied on the applicant as no show-cause was given to him. As such the the order of the D.R.M., Northern Railway dated 29.10.83 is illegal and without jurisdiction and cannot be maintainable. As the retention of premises cannot be inter-alia with the cancellation of the statutory right of the railway employee the statutory right of a railway employee cannot be taken away by such circular. Accordingly this application deserves to be allowed and the order passed by D.R.M. Northern Railway dated 29.10.83 is quashed and the respondents are directed to release the previous and future passes of the applicant without interlinking the matter with the possession of the bungalow which was in occupation of the applicant. No order as to costs.

Amulya
Member (A)

LS
Vice-Chairman.

24th February, 1992 Alld.

(sph)

T.A.No.1285/87

24.2.92

Hon. Mr. Justice U.C.Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Member (A)

Heard Sri K.B.Srivastava for the
applicant and Sri G.P.Agrawal for
the opposite parties.

Judgment dictated separately.

S

A.M.

C

V.C.

(sph)