

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 558 of 1994

Allahabad this the 14th day of December, 2001

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj Gen K.K. Srivastava, A.M.

Tej Narain Mishra, Son of Sri R.N. Mishra, resident of Quarter No.T-2/B Railway Colony Deoria, working as Head Booking Clerk, Deoria.

By Advocate Shri Rajeev Mishra. Applicant

Versus

1. Union of India through General Manager, N.E. Rly. Gorakhpur.
2. D.R.M.(C) N.E. Rly. Varanasi.

By Advocate Shri Prashant Mathur. Respondents

O\_R\_D\_E\_R ( Oral )

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the order dated 24.02.94 by which the allotment of railway quarter in his favour has been cancelled with the date of his transfer.

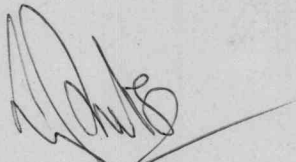
2. The facts of the case are that the applicant joined as Head Booking Clerk at Deoria. He was allotted quarter no.T-2/B, Railway Colony at Deoria Sadar. The applicant was transferred from Deoria to Siwan station

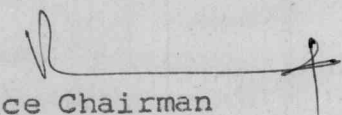
on 24.04.90. The normal rent of quarter was Rs.40/- per month. The case of the applicant is that he was not allotted any house at Siwan, therefore, he could not shift<sup>his</sup> his family. The applicant made a request on 13.09.1991 for permission to retain the quarter on normal rent for two months. The permission was granted. The respondents, however, by the impugned order dated 24.2.94 have cancelled the allotment in favour of the applicant from the date of his transfer i.e. 24.04.90, and have directed to recover the amount as damage rent. Aggrieved by <sup>which</sup> this O.A. has been filed.

3. Learned counsel for the applicant has submitted that once applicant was permitted to retain the quarter for a period of 2 months on his request dated 13.09.91, the cancellation of allotment could not be ordered with retrospective effect, from the date of his transfer i.e. 24.04.90. It is also submitted that before passing the order the applicant has not been given any opportunity of hearing and the order is violative of principles of natural justice. Shri Prashant Mathur on the other hand has submitted that the applicant was transferred in 1990 and he could retain the quarter for a reasonable period, but he retained for a longer period and the cancellation of the allotment is just and proper. However, he could not justify the action of the respondents to pass the order without opportunity of hearing.

4. For the reasons stated above, in our opinion, the applicant is entitled for the relief

to the extent that this order may be quashed and respondents may be given liberty to pass a fresh order after giving opportunity of hearing to the applicant. The O.A. is allowed. The order dated 24.02.1994 is quashed. The respondents may, however, pass a fresh order after giving show cause notice to the applicant. However, we make it clear that this order will not entitle<sup>h</sup> the applicant to occupy the quarter if he has not yet vacated the same. If any amount has been deducted from the applicant as penal<sup>h</sup> rent, it shall be subjected to the order passed by the authority in pursuance of this order. No order as to costs.

  
Member (A)

  
Vice Chairman

/M.M./