

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. No. 534/87

198

DATE OF DECISION 29-11-1988

Shri Purshottamdas T.Sharma Petitioner

Shri K.K.Shah Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B.R.Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H.Trivedi : Vice Chairman

The Hon'ble Mr. P.M.Joshi : Judicial Member

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?

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J U D G M E N T

OA/534/87

29-11-1988

Per : Hon'ble Mr.P.H.Trivedi : Vice Chairman

In this case the petitioner has applied under section 19 of the Administrative Tribunals Act, 1985 for directing, quashing and setting aside the order dated 30-1-1986 and 23-1-1985 respectively of appellate and disciplinary orders removing him from service on the ground of having occupied unauthorisedly and illegally the quarters originally allotted to him by not vacating them on his transfer and thus being guilty of serious misconduct. The petitioner's plea is that at Palanpur he was originally allotted quarters and then he was transferred to Gandhidham. He could not vacate the quarters because he could not obtain quarters from the railways in Gandhidham. He was proceeded against departmentally and ultimately he appealed against the order in it in the court of the District Judge who allowed the appeal. Instead of appealing against the decision in the District Court the respondent started the eviction case against the petitioner under the Public Premises Eviction of Unauthorised Occupants Act, 1971 against which he obtained an order in Regular Civil Appeal No.27/76 from the District Court restraining the respondent from getting the eviction. The petitioner also filed a writ petition before the High Court in SCA/3630/85 but he withdrew it on the statement of the learned advocate for the railways that it was premature as remedy of the departmental appeal was available to him. He preferred this appeal against the removal of service but that appeal was not considered and was decided by a non-speaking order dated 30-1-1986 at Annexure A-6. He filed a review petition which is still pending for more than 11 months.

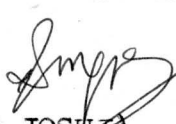
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2. The respondents have filed no reply. The facts and circumstances in this case are analogous to TA/421/86 in which judgment was delivered on 22-12-1987. It was held that:

"When a Govt.servant fails to vacate rent free accommodation, on transfer, he is liable to pay the rent including the penal rent provided under the rules and he will be subject to eviction proceedings under the Govt.Premises Eviction Act and hence the disciplinary proceedings are not competent".

It was also held that the impugned order of removal from service is not sustainable and deserves to be set-aside. We do not find any reason to distinguish the present case from the case referred to and accordingly we hold that the petition has merit. The impugned orders dated 30-1-86 and 23-1-85 are quashed and set aside. So far as continuing the petitioner in the occupation of the quarter, however, we do not pass any orders as the merits of the title of the petitioner to continue in possession of such quarters can be contested in separate proceedings in another forum. We ,however, direct that the petitioner be reinstated in the original post and he is entitled to be treated in continuous service with consequential benefits within a period of 4 months of the date of this order. No order as to costs.

  
(P.H. TRIVEDI)  
Vice Chairman

  
(P.M. JOSHI)  
Judicial Member

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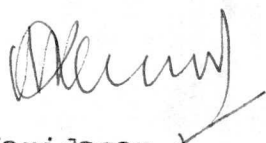
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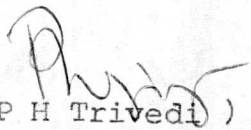
CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Hon'ble Mr. A.V. Haridasan .. Judicial Member

31.1.1990

Learned advocate Mr. K.K. Shah for the applicant present. Issue notice on the respondents to reply on M.A. within 30 days. Registry to post the case for orders.

  
( A V Haridasan )  
Judicial Member

  
( P H Trivedi )  
Vice Chairman

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CORAM : Hon'ble Mr.A.V.Haridasan : Judicial Member  
Hon'ble Mr.M.M.Singh : Administrative Member

09/08/1990

Mr.K.K.Shah learned counsel for the applicant  
requests for an adjournment on the ground that he is unwell.  
Allowed. List the case for orders.

M. M. Singh  
( M.M.Singh )  
Administrative Member

  
( A.V.Haridasan )  
Judicial Member

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Coram : Hon'ble Mr. J.N.Murthy : Judicial Member  
Hon'ble Mr. M.M.Singh : Administrative Member

27/8/1990

Heard Mr.K.K.Shah and Mr.B.R.Kyada, learned counsel for the petitioner and the respondents. The learned counsel for the petitioner states that as per the judgment 29.11.1988 in OA/534/87 the applicant was reinstated in service <sup>but</sup> and consequential benefits were not granted and for that he ~~was~~ filed this application on 9.7.1989.

Learned counsel for the respondents - Railways opposes the application. We have heard both the sides. We direct the petitioner to approach the respondents by way of <sup>a</sup> petition for consequential benefits i.e. backwages and seniority and the respondents may dispose of his representation within a period of two months and if the respondents - railways fail to comply with the request <sup>of</sup> ~~in~~ the petition <sup>- or</sup> the petitioner can approach the Tribunal for a remedy. Accordingly the petition is disposed of. No order as to costs.

*M. M. Singh*  
(M.M.Singh)  
Administrative Member

*J. N. Murthy*  
(J.N.Murthy)  
Judicial Member