

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH:MUMBAI

OA NO.916/2000 99
WEDNESDAY, THE 18TH DAY OF OCTOBER, 2000.

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR.B.N.BAHADUR, MEMBER (A)

Vinod Kumar Mishra
working as Khalasi-Helper
Sr.Section Engineer (TRS)
CST Main, Central Railway
R/o Railway Qr.No.1016/20-RB-1
Central Railway Colony
Waldhuni
Kalyan
Dist: Thane

.... Applicant

(By Advocate Shri G.S.Walia)

vs.

1. Union of India, through
General Manager
Central Railway
Head Quarters Office
Mumbai CST
Mumbai-400 001.
2. Divisional Railway Manager
Mumbai Division
DRM's Office
CST Mumbai
Mumbai-400 001.
3. Sr.DEE (TRS)
Electric Engine Loco Shed
Central Railway
Kalyan, Dist. Thane

.... Respondents

(By Advocate Shri Suresh Kumar)

ORDER (ORAL)

JUSTICE ASHOK AGARWAL:

Applicant is working as a Khalasi-Helper under the 3rd respondent. He has been allotted Railway Quarter No.1016/20 RB-1, Central Railway Colony which he has been occupying since 1992.

2. By a Memorandum issued to the applicant on 20.7.199 at Exhibit 'B, minor penalty proceedings have been sought to be initiated against him under the following statement of charges:-

"Statement of Charges

During the period 1998-99 committed serious irregularity in that he subletted the Rly. Qr.No.RB/1/1016/20 at Waldhuni Kalyan to another




Rly employee Shri Kamalchand Asstt.Driver Kalyan unauthorisedly i.e. without taking permission from Competent authorities for sharing accommodation thus violated Rly Service Conduct Rule No.15A.

The above act of Shri V.K.Mishra, K/H Electric Loco shed Kalyan, amounts to servious misconduct and thus he failed to maintain devotion to duty and absolute integrity and thereby violated the provision of Rule 3(i) and (ii) of Railway Service Conduct Rules, 1966."

By a further order passed on 21.7.1999 at Exhibit 'A', the allotment of the aforesaid quarter has been cancelled and damage rent at market rate is directed to be recovered from the applicant on the ground which ground is also contained in chargesheet that the applicant has sublet his Railway Quarter without obtaining permission. Chargesheet of 20.7.1990 is annexed at Exhibit 'B' whereas the order cancelling the allotment and directing recovery of damage rent is annexed at Exhibit 'A'. Applicant, in reply to the chargesheet has submitted his defence on 6.8.1999 whereby he has denied the charge. He has also made a prayer for being supplied with the documents. Since proceedings were undertaken to recover damage rent against the applicant, he has instituted the present OA on 27.10.1999. By an ad-interim order passed on 5.11.1999, aforesaid recovery had been stayed.

3. Pending the OA, we are informed by Shri G.S.Walia, the learned counsel appearing on behalf of the applicant that an order has been passed on 28.4.2000 imposing a penalty of withholding of one increment for a period of one year without cumulative effect upon the applicant. Aforesaid order of penalty has been impugned by the applicant in an appeal which is pending.

3. As far as the present OA is concerned, applicant has impugned the order of 21.7.1999 at Exhibit 'A' whereby the allotment of his Railway Quarter has been cancelled and damage




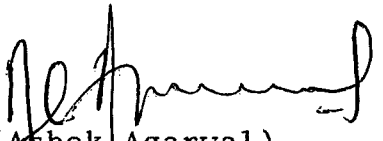
rent is sought to be recovered from him. In our view, the order impugned cannot be sustained as the same has been issued in breach of the principles of natural justice. Prior to passing of the order, no notice has been issued and no opportunity has been rendered to the applicant to show cause. In the circumstances, aforesaid order of 21.7.1999 in so far as it cancels the Railway Quarter allotment and directs recovery of damages is quashed and set aside. The order in so far as it directs issue of minor penalty proceedings is, however, not disturbed.

4. Present OA is allowed in the aforestated terms.

5. It goes without saying that it will be open to the applicant to impugn the order in the disciplinary proceedings should the appeal be decided against him. It also goes without saying that it will be open to the respondents, if so advised, to pass appropriate orders in regard to the cancellation of allotment and for recovery of penal rent in accordance with law.

6. In the circumstances of the case, we make no order as to costs.


(B.N. Bahadur)
Member(A)


(Ashok Agarwal)
Chairman

sns