

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 486/98

Date of Decision: 20/4/99

Rajaram M

Applicant.

Shri A.I. Bhatkar

Advocate for
Applicant.

Versus

Union of India & Anr.

Respondent(s)

Shri V.S. Masurkar

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri.

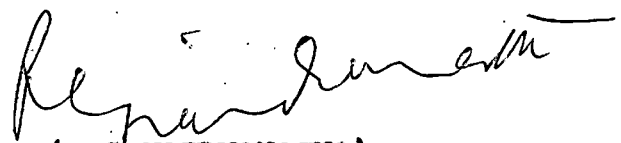
(1) To be referred to the Reporter or not?

No

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

No

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT.
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:486/98.

DATED THE 20TH DAY OF APRIL, 1999.

CORAM:Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Rajaram M,
presently working as D/Mech
Gr.II, Diesel Loco Shed,
Bandra, C/.Shri A.I.Bhatkar.

... Applicant.

By Advocate Shri A.I.Bhatkar

v/s.

1. Union of India,
through the Divisional
Railway Manager,
Western Railway,
Mumbai Central,
Mumbai.

2. Senior Section Engineer,
(Diesel), Western Railway,
Diesel Loco Shed,
Bandra, Mumbai.

... Respondents.

By Advocate Shri V.S.Masurkar.

I O R D E R I

[Shri R.G.Vaidyanatha, Vice Chairman]

This applicant is challenging the cancellation of allotment of quarters and consequential orders. Respondents have filed reply opposing the application. I have heard the learned counsels appearing on both sides.

2. The applicant being an official of Western Railway has been allotted quarters. During a surprise inspection, it came to light that the applicant had allegedly sublet the quarters and on that basis the allotment in favour of the applicant was cancelled by order dated 6/2/96 and there is a subsequent order dated 27/5/98 for recovery ^{of penal rent} from the applicant. The applicant is challenging the said two orders. His case is that he has not sublet the quarters and therefore the action taken by the respondents is not sustainable. He also challenges the Impugned order on the ground that no enquiry was held and that the order is bad being in violation of principles of natural



justice.

The respondents in their reply have justified the action taken against the applicant. They have explained during a surprise visit, the subletting of quarters by applicant came to light and on that basis action has been taken according to rules.

2. Today, I have dictated a separate order in OA-485/98 that cancellation of allotment without issuing show cause notice is in violation of principles of natural justice and such an order cannot be sustained. If the present application also stands on the same facts then there is no doubt that the said order will have to be applied and the impugned order of cancellation of allotment and the second order of recovery of penal rent will also have to be set aside.

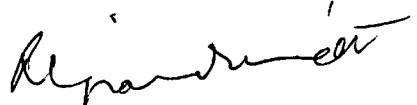
But after hearing both sides, I find that the present case is not identical with the facts of OA-485/98.

3. After coming to know that the applicant had sublet the quarters and issued order of cancellation of allotment, the department also issued a charge sheet against minor penalty that the act of subletting the quarters amounts to misconduct. The applicant gave a reply denying the allegation. But the Disciplinary Authority passed an order imposing a minor penalty. The applicant preferred an appeal before Appellate Authority, by order dated 30/1/97 (page.26 of paper book) held that the appeal is not maintainable and barred by limitation but reduced the penalty by considering the appeal on sympathetic grounds to "Withholding of one set of PTO as and when due." He further recorded a finding that the order of Disciplinary Authority is warranted by the evidence on record. Therefore here is a finding by Disciplinary Authority as well as Appellate Authority where the charge of misconduct against applicant for subletting the quarters is proved and in appeal the punishment has been reduced. Now, if I set aside the impugned order on the basis



of order in OA-485/98, the subsequent orders of Disciplinary Authority and Appellate Authority would become unsustainable. The applicant is not challenging these orders of Disciplinary Authority or Appellate Authority. Those orders have now become final. Atleast the applicant had an opportunity to show cause by replying to the charge sheet that was issued and the minor penalty has also been reduced and held that misconduct of subletting is true and imposed a punishment and the finding of misconduct is confirmed by Appellate Authority. Now we cannot in this OA go into the question whether subletting is true or not and quash the orders of Disciplinary Authority and Appellate Authority ^{since} the orders have become final. Therefore, in my view we cannot go into the question whether the allegation of subletting is true or not in this case for the reasons mentioned above. It is also brought to my notice that the applicant himself has since vacated the quarters on 26/6/98. This also indicates that the applicant might have been advised to vacate the quarters. Hence, in the facts and circumstances of the case I am not inclined to interfere with the impugned orders dated 6/2/96 and 27/5/98.

4. In the result, the ^{application} ~~applica-~~tion fails and the OA is dismissed. The Interim order dated 18/6/98 granted in this case is hereby vacated. There will be no orders as to costs.



(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.