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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7075/2013 & C.M. No.15270/2013

UNION OF INDIA & ORS.

..... Petitioners

Through Mr.Amitava Poddar, Advocate.

versus

RAMESH CHANDER JATAV

..... Respondent

Through Mr.Vishwendra Verma, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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08.03.2017

1 Petitioner is aggrieved by the order passed by the District Judge dated 29.8.2013 which was in proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the said Act).

2 Record shows that the respondent Ramesh Chander Jatav was an employee of the Delhi Division, Northern Railway. In the course of his service he had been granted an official quarter i.e. Quarter No.R-142-A, Railway Colony, Sakur Basti, Delhi. The respondent had been removed from service on the ground of misconduct w.e.f. 21.01.1994. His appeal against the dismissal order did not work in his favour.

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3 During the termination period the Estate Officer issued a notice to the respondent (under Section 5 of the said Act) seeking his eviction from the Government quarter. The respondent was directed to be evicted vide the order of the Estate Officer on 26.12.2012. In appeal learned District Judge vide impugned order had held that since the allotted accommodation till date is in possession of the appellant (respondent herein) and he admittedly being an employee of the Indian Railway and having been granted the benefit of reinstatement with a retrospective effect, the order passed by the Estate Officer seeking eviction of the respondent from the aforesaid quarter suffered from an illegality. The appeal was allowed.

4 This is the grievance of the petitioner.

5 Arguments have been heard. Record has been perused.

6 Record shows that the respondent had been removed from his service on 24.01.1994; that order is not a part of the record; neither of the counsels have that order but admittedly the ground of the removal of the respondent from service was a misconduct. An eviction order was passed by the Estate Officer under Section 5 of the said Act against the petitioner on 08.01.997. The appeal against the said order was dismissed with a liberty granted to the petitioner to take fresh eviction proceedings against the respondent. Pursuant thereto a notice was again issued to the respondent and proceedings under Section 5 of the said Act were again initiated. On 13.8.2009, the Estate Officer passed an order directing eviction of the petitioner from the staff quarter. The Appellate Court on 29.8.2013 (impugned order) allowed

the appeal.

7 Record shows that the petitioner who had been removed from service had been reinstated vide order dated 10.10.1996. The appellant was directed to be reinstated in service with full benefits. Copy of the said order dated 10.10.1996 placed before this Court which was an answer to the representation made by the petitioner reads herein as under:

“In view of the anomalies, infirmities, illegalities, committed by inquiring authority and further endorsed by the appellant authority being bias and having been influenced by mala fide intention while passing such an order whimsically and in an arbitrary manner and without any regard to law victimised the appellant by removing him from service hence abetted the offence of atrocity on a member belonging to Scheduled Caste Community. Therefore the aforesaid order dated 24.1.94 and order dated 11.4.94 inter-alia void order, therefore liable to be quashed and set aside and the appellant be reinstated in service with full benefits retrospectively. ”

8 In fact the impugned order has also relied upon this extract to draw the right conclusion that since the respondent had been reinstated in service with full benefits retrospectively, the benefit of the official accommodation should be given to him; this was especially noting the additional fact that the petitioner had continued to retain this official accommodation in this intervening period.

9 This Court endorses the view taken in the impugned order. Since the respondent had been reinstated with all benefits and it was a

retrospective reinstatement (clear from the communication dated 10.10.1996 of the Minister of Railway and which has not been disputed) retrospective benefit would definitely include entitlement of the petitioner to retain the said quarter. The impugned order does not suffer from any perversity. No interference is called for.

10 Petition dismissed.

INDERMEET KAUR, J

MARCH 08, 2017

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