

10

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 833/2002

This the 4th day of October, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Shri O.P. Gautam
Station Suprintendent
Northern Railway
Mohiuddin Pur.

(By Advocate: Ms. Meenu Mainee)

....Applicant

Versus

UNION OF INDIA Through :-

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi.
3. The Senior Divisional Operating Manager
Northern Railway
State Entry Road
New Delhi.

(By Advocate: Sh. Rajender Khatter)

....Respondents

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant in this OA has challenged order dated 13.3.2002, i.e., Annexure A-1 vide which he has been informed that he has unauthorisedly occupying Railway quarter No. T-35B at Meerut who is now posted as Station Superintendent at Mohiuddin Pur.

2. The facts in brief are that the applicant is working as Station Superintendent in the grade of Rs.6500-10,500 w.e.f. 26.4.96 and was posted as Leave Reserve Assistant Station Master at Meerut. He was allotted the quarter in question. Thereafter he has been transferred from Meerut Cantt to Meerut City in the year 1989 and he was allowed to retain the quarter. Applicant was again transferred from Meerut City to



Sakhoti Tanda in the year 1991 and was allowed to retain the same quarter. Then again he was transferred from Sakhoti Tanda to Meerut Cantt. and again from Meerut Cantt. to Dhola Mazra near Amabla and then from Dhola Mazra to Pabli Khas. But applicant was permitted to retain the quarter because of education of his daughters. Thus, he had been transferred to various stations, however, he has been allowed to retain the quarter. But now applicant has been transferred to Mohiuddin Pur Railway Station which is at distance of 15 km. from periphery of Nagar Nigam Meerut and he is even entitled to House Rent Allowance at a rate applicable to Meerut. Since the three daughters are studying in various colleges of Meerut so he should be allowed to retain the aforesaid quarter and respondents should not charge the damaged rent and penal rent.

3. It is further pointed out that since the department has already taken a decision to permit the applicant to retain quarter when he was earlier transferred to various stations, similar decision be taken now and applicant should not be forced to disturb the study of the daughters who are studying in Meerut.

4. That OA is being contested by the respondents. Respondents in their counter reply has stated that the applicant being Assistant Station Master/Station Superintendent belongs to essential category of Train Passing Staff and for such staff there were non pooled accommodation at every station. It is admitted that earlier applicant was transferred to Dhola Majra and other stations but since he had requested to retain the quarter and permission was allowed on educational account upto school session upto 31.3.94,



thereafter applicant had been transferred to various other stations and on educational account permission was granted to retain the house. But now it is submitted that since Mohiuddin Pur falls in the Tehsil of Meerut and not within same Municipal limit so applicant cannot be allowed to retain the accommodation and since the applicant's duty is that of SM/SS, incharge is required to be present at the station on every occasion of sudden exceptional pressure of emergency. Stay of the SS cannot be permitted outside the Railway Station particularly when there is non pooled accommodation available for him at the stations of posting. Therefore, now the request for Railway quarter at Meerut Cantt was regretted. It is also submitted that the duties of the applicant involve safe and secure running of trains without any obstruction and it is in the interest of public and safe running of the Railway that applicant should be present at the station of posting so that he be available at the time of Emergency so it is for the reason that non-pooled accommodation has been provided at the Station.

5. I have heard the learned counsel for the parties and gone through the record.

6. Ms. Meenu Mainee, learned counsel appearing for the applicant highlighted the earlier transfers orders vide which the applicant was allowed to retain accommodation. It is submitted that since the daughters of the applicant are still students, though they are college-going, so applicant should be allowed to retain Govt. accommodation.

7. However, in reply Sh. Khatter appearing for the respondents pointed out that under rule 3004 of the operational Manual, it is the duty of the SM/SS incharge to be

ku

present at his station on every occasion of sudden exceptional pressure of Emergency. It also provides that every Station Master is answerable for the security and protection of offices, buildings and all property under his charge. So non-pooled accommodation is provided at every station. Counsel for respondents then also referred to a judgment reported in 2002 (1) ATJ 519 in case of O.P. Roy vs. Union of India wherein it has been observed as under:

"Damage Rent - Penal Rent - Unauthorised occupation - applicant transferred - not vacated the Railway quarter - charge of penal rent after the extended period of retention of quarter, not faulty - further omission of the Railway Administration after in not disposing of the representation of the applicant would not give him a right to claim further extension of the Railway quarter."

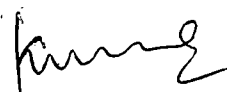
8. Relying upon this judgment counsel for respondents submitted that the applicant who is unauthorisedly occupying the premises is liable to pay the damaged rent/penal rent despite the fact that his representation against the said order is pending.

9. I have given my thoughtful consideration to the relevant submissions and point raised by the respective counsels. The fact that earlier the applicant was transferred and was allowed to retain accommodation have no bearing for the present transfer because earlier applicant was working as ASM whereas now he is working as SS/Station Incharge. The duty of SS/Station Incharge is provided under the rules, as narrated above, the duty requires that SS/Station Incharge should remain available at the Station in case of exceptional emergencies and he can remain available only if a non-pooled accommodation be provided to him at the relevant station and since in his case non-pooled accommodation is available

ku

applicant is required to stay at the station where he is posted and he cannot be allowed to retain accommodation at a distant place i.e. at Meerut because there is a distance of 16 kms from Mohiuddin pur and Meerut.

10. So in these circumstances, I find that the request of the applicant for retaining the accommodation has been rightly turned down because the Railways are supposed to see the safety of running of trains instead of educational interest of the school going children of the applicant. As far charging of liability to pay damage rent and penal rent is concerned the case is fully covered as per the judgment in the case of O.P.Rai, so I find no merits in the OA and the same is hereby dismissed.


(KULDIP SINGH)
Member (J)

sd