

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1288/99

(14)

New Delhi, this the 12th day of May, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Sh. Mahesh Chandra, Head Clerk (Retd.),  
Qtr.No.125-B, D.C.M., Railway Colony,  
Delhi - 6.

.....Applicant.

(By Advocate: Mr. A.K.Verma)

VERSUS

1. General Manager, Northern Railway,  
Baroda House, New Delhi.
2. Divisional Railway Manager,  
Northern Railway, Bikaner,  
Rajasthan.
3. Financial Advisor and Chief  
Accounts Officer, Northern Railway,  
Baroda House, New Delhi.
4. Sh. Nand Kishore Sharma, D.M.E.  
(Power), Bikaner, through  
Divisional Railway Manager,  
Northern Railway, Jodhpur,  
Rajasthan.

...Respondents.

(By Advocate: Mr. P.M.Ahluwat)

O R D E R

By Hon'ble Mrs. Lakshmi Swaminathan, M (J):

The applicant is aggrieved by the action taken by the respondents in not releasing his retiral benefits despite his various representations and reminders and not granting him permission to stay in the Govt. accommodation after his retirement in accordance with the Rules.

2. The brief relevant facts of the case are that the applicant retired from service on superannuation on 30.11.97. He had submitted a representation on 22.10.97 requesting them for permission to stay in the Govt. accommodation as per rules. According to Sh. A.K.Verma,

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learned counsel for applicant, the respondents granted the permission to retain the Govt. accommodation which has been earlier allotted to him, till 31.3.98 (Annexure A-2). In this letter, it has been stated that permission has been granted to him to retain the quarter w.e.f. 1.12.97 till 31.3.98 at normal rent and thereafter he was requested to vacate the accommodation. According to the applicant, in the meantime, his wife became seriously ill and he had submitted another representation on 19.3.98 requesting the respondents to grant permission to retain the Govt. accommodation on medical grounds for a period of four months, that is till 30.7.98. Learned counsel for applicant has submitted that no reply had been received from the respondents though another representation was made by the applicant. Finally, Respondent 4, vide letter dated 30.3.98, refused to grant permission to the applicant to retain the Govt. accommodation for a further period of four months on medical grounds, which has been assailed by the applicant. Learned counsel has submitted that <sup>as</sup> the applicant's wife was seriously ill, the respondents ought to have granted his request for retention of the Govt. accommodation for a further period of four months, which they did not do. He has also submitted that Respondent 4, that is Sh. Nand Kishore Sharma, DME (Power), Bikaner, has also harassed the applicant by demanding illegal bribe of a sum of Rs.4,000/- for granting this permission, which he was otherwise entitled to on medical grounds. The applicant had made several representations to Respondent 4 seeking certain clarifications and also payment of gratuity and other retiral benefits. He has also submitted that in

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some other cases, Govt. accommodation had been allowed to be retained by the retired Govt. servant even upto 4 or 5 years by paying illegal gratification to Respondent 4. To his representations, the respondents issued letter dated 20.1.99 (Annexure A-11), in which they have granted permission for retention of the Govt. quarter for four months on normal license fee and for further four months on double the normal license fee as per the practice and rules. That period beyond eight months after the retirement of the employee has been ordered to be treated as unauthorised retention for which he was liable for damage charges. The applicant had, in the meantime, addressed a representation to the General Manager, Northern Railway, New Delhi - Respondent 4, in which he has, inter alia, stated that he had met Respondent 4 requesting him to grant permission to retain the Govt. accommodation on medical grounds on double the normal rent w.e.f. 1.4.98 till 31.7.98 but the Officer had instructed him to bring one application alongwith medical certificate and Rs.4,000/- for him to grant the permission. Sh. A.K.Verma, learned counsel has submitted that the applicant has been thus harassed unnecessarily by Respondent 4 for which he has claimed damages of a sum of Rs.2,00,000/-. He has also prayed for payment of his retiral benefits, including gratuity with 24% interest, a direction to Respondents 1 and 2 to hold an enquiry about the Office work of Respondent 4 and for a direction to waive/not to charge the penal rent for overstay in the Govt. accommodation w.e.f. 31.7.98.

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3. I have seen the reply filed by the respondents and heard Sh. P.M.Ahlawat, learned counsel for respondents. The respondents have submitted that Respondent 4 is competent to grant permission to retain the Railway accommodation, earlier allotted to the retired employee, for a maximum period of eight months from the date of his retirement, on specific grounds, as per the extant Rules. They have also referred to the instructions/ orders dated 24.4.82 on the basis of which they could "hold back" the amount of rent recoveries which is also in accordance with the rules. Learned counsel for the respondents has submitted that payment of gratuity can be made on the vacation of the Railway quarter after recovering the due rents for unauthorised occupation of the quarter beyond the permissible period. The respondents have submitted that when the case of the applicant was referred to respondent 1, he had approved the retention of the Govt. quarter for a further period of four months on double the normal license fee, i.e. for a total period of eight months after the retirement of the applicant and thereafter, the same has to be treated as unauthorised occupation for which damage rent is recoverable in accordance with the rules. They have also referred to the Declaration dated 22.10.97 given by the applicant in terms of the Railway Board's order dated 24.4.82. In the circumstances, learned counsel has submitted that the applicant is liable to pay damage rent and other charges for unauthorised occupation of the Govt. quarter w.e.f. 1.8.98 till the vacation of the quarter and also not entitled to any interest on the DCRG amount or other reliefs as prayed for by the applicant.

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4. The applicant has filed rejoinder more or less reiterating his averments in the OA. Sh. Verma, learned counsel has also submitted that as the letter from the respondents granting the permission to retain the Railway quarter w.e.f. 1.12.97 till 31.7.98, i.e. for a period of eight months in accordance with the rules, had been issued by them only on 3.3.99, in spite of his many requests and representations, the applicant is not liable to pay any damage rent as claimed by the respondents. Sh. Verma, learned counsel had further submitted that in case the OA is not allowed, some time may be granted to the applicant for vacating the Govt. accommodation.

5. I have carefully considered the pleadings and submissions made by both the learned counsel for the parties.

6. The applicant has made certain serious allegations against Respondent 4, i.e. Sh. Nand Kishore Sharma, D.M.E. (Power), Bikaner, both in the OA as well as in the representation addressed to the General Manager, Northern Railway, New Delhi - Respondent 1. The Registry has issued several notices to the respondents, including the notice to Respondent 4 issued on 9.3.2000. Service of notice on respondent 4 is, therefore, complete, although he has not filed any separate reply controverting the personal allegations made against him by the applicant. Therefore, in the facts and circumstances of the case, it is for Government/Respondent 1 to pursue the matter and take further necessary action in accordance with the relevant rules.

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7. Regarding the contention of the applicant that because his representations were pending with respondent 4 for granting him permission to retain the Railway quarter, which was earlier allotted to him, beyond his retirement, was not conveyed to him till issuance of the letter dated 3.3.99 he should, therefore, be charged only the normal rent for the intervening period is not tenable. The respondents have granted him permission to retain the Railway quarter in question, w.e.f. 1.12.97 till 31.3.98 on normal rent and w.e.f. 1.4.98 to 31.7.98 on double the normal rent on medical grounds as requested by him, which is in accordance with the relevant Rules. The stand taken by the respondents that the applicant is in unauthorised occupation of the said quarter w.e.f. 1.8.98, and he is liable to pay the damage rent and other charges in accordance with the rules and instructions cannot be faulted. As the rules applicable to the situation are clear and unambiguous, the applicant cannot claim the benefit of payment of normal rent for the subsequent period after 1.8.98, till he vacates the Govt. quarter, de hors the rules. The claim of the applicant for a direction to the respondents to waive or not to charge the penal rent for overstaying in the Govt. accommodation beyond 1.8.98 is, therefore, untenable and is accordingly rejected. The applicant himself had given an undertaking to the respondents on 22.10.97 which is relevant to the facts of this case.

8. In the result for the reasons given above, as there is no merit in this application, OA is accordingly dismissed.

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- i) Respondent 1 may, however, see the observations made above in para 6;
  - ii) In the facts and circumstances of the case, the applicant may be allowed to retain the Govt. quarter for a period of 45 days from today, subject to the payment of rent in accordance with the rules, and he shall hand over vacant possession of the Govt. quarter to the competent authority on or before 26.06.2000;
  - iii) Thereafter, the respondents shall release the due retiral benefits to the applicant in accordance with law;
  - iv) In the circumstances of the case, the claim for interest is also rejected.
- No order as to costs.

  
(Mrs. Lakshmi Swaminathan)  
Member (J)

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