

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1587/1999

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New Delhi this the 21st day of July, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

Virender Pratap
R/o House No.146/C DCM Railway Colony
Kishan Ganj,
Delhi.

... Applicant

(In person)

-Versus-

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway
Bikaner.
3. Sr.Divisional Commercial Manager
Northern Railway
Bikaner.

... Respondents

(By Advocate Shri R.L.Dhawan)

O R D E R (ORAL)

Shri Justice Ashok Agarwal:-

By the present OA, applicant seeks to impugn an order issued by the Senior Divisional Commercial Manager, Northern Railway, Bikaner on 7.1.1998, Annexure A-1 directing recovery of penal rent at the rate of Rs.2583/- per month with effect from 11.5.1994 till he vacates the Railway quarter from his salary bill along with arrears.

2. Aforesaid impugned order dated 7.1.1998 is impugned by the applicant by instituting the present OA on 10.7.1999. Present OA in the circumstances, I

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find is barred by limitation. Though the aforesaid objection has been squarely taken by the respondents in their counter, applicant has not even chosen to submit an application for condonation of delay. In **P.K. Ramachandran vs. State of Kerala & anr.**, JT 1997 (8) SC 189, the Supreme Court has held that the law of limitation has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.

3. In the circumstances, I find that the present OA is liable to be dismissed on this ground, namely that the OA is barred by limitation.

4. Even on merits, I find that there is no case made out for interference. Applicant was employed as Goods Clerk at Delhi. He was promoted on ad hoc basis to the post of Chief Goods Supervisor. He was transferred to Rewari on 3.5.1994. While he was posted at Delhi he had been allotted Railway Quarter No. 146/C DCM Railway Colony, Kishan Ganj, Delhi. On his transfer he joined his post at Rewari on 12.5.1994 as Chief Goods Supervisor. He however, did not vacate the aforesaid Railway quarter. He also did not obtain any permission to retain the same. A railway employee on transfer from one station to another which necessitates change of residence could be permitted to

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retain the railway accommodation at the former station of posting for a period of two months on payment of normal rent or single flat rate of licence fee/rent. However, on request by the employee on educational or sickness account, the period of retention of railway accommodation could be extended for a further period of 6 months on payment of special licence fee, i.e. double the flat rate of licence fee/rent. Applicant has been retransferred from Rewari to Delhi Canntt. in October 1997. He however, continued in unauthorised occupation of the aforesaid Railway quarter No.146C, DCM Railway Colony, Kishan Ganj, New Delhi. Having regard to the aforesaid unauthorised occupation aforesaid impugned order has been issued directing recovery of penal rent with effect from the date of his transfer from Delhi to Rewari, i.e., with effect from 11.5.94 till he vacates the same.

5. Aforesaid facts in regard to applicant's transfer and retransfer are not disputed. If one has regard to the aforesaid facts, conclusion is irresistible that occupation by the applicant of the aforesaid Railway Quarter after his transfer is unauthorised. Aforesaid transfer cannot be termed as temporary transfer as it is only if the transfer is for a period of 6 months or less, the same can be termed as temporary transfer.

6. As far as aforesaid unauthorised occupation by the applicant of the Railway quarter is concerned, record shows that disciplinary proceedings have also

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been initiated against him by issue of a chargesheet on 11.9.1998 at Annexure A-11. In my judgement, aforesaid disciplinary proceedings can in no way come in the way of the Railway Administration to claim penal rent as has been done by the impugned order. A Full Bench of this Tribunal in the case of Ram Poojan vs. Union of India & Ors., (1994-1996) A.T.F.B.J 244 has answered the question referred to as under:-

"(a) In respect of a railway employee in occupation of a railway accommodation, in our considered opinion, no specific order cancelling the allotment of accommodation on expiry of the permissible/permitted period of retention of the quarters on transfer, retirement or otherwise is necessary and further retention of the accommodation by the railway servant would be unauthorised and penal/damage rent can be levied.

(b) our answer is that retention of accommodation beyond the permissible period in view of the Railway Board's circulars would be deemed to be unauthorised occupation and there would be an automatic cancellation of an allotment and penal rent/damage can be levied according to the rates prescribed from time to time in the Railway Board's circular."

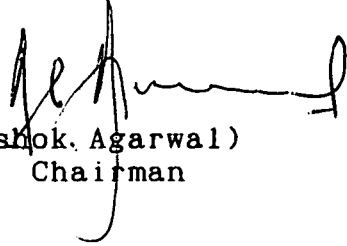
7. In view of the aforesaid decision, a conclusion is irresistible that occupation by the applicant of the railway quarter after his transfer is unauthorised. Railway authorities in the circumstances are fully justified in recovering penal rent as directed by the impugned order dated 7.1.1998.

8. For the foregoing reasons, OA is found to be

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devoid of merit. The same is accordingly dismissed,
but without any order as to costs.


(Ashok Agarwal)
Chairman

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