

Central Administrative Tribunal
Principal Bench, New Delhi.

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Q. A. No. 1901/95

New Delhi this the 23rd Day of February, 1996.

Hon'ble Sh. B. K. Singh, Member (A)

Shri Rajinder,
S/o Sh. Sardara,
R/o Quarter No.150/1,
Minto Bridge Railway Colony,
New Delhi.

Applicant

(through Sh. B.S. Mainoo, advocate)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divl. Rly. Manager,
Northern Railway,
New Delhi.

3. The Divl. Superintending Engineer (Estate)
Divl. Railway Manager Office,
New Delhi.

4. The Estate Officer,
D.R.M. Office,
Northern Railway,
New Delhi.

Respondents

(through Sh. K. K. Patel, advocate)

ORDER (ORAL)
delivered by Hon'ble Sh. B. K. Singh, Member (A)

This Q. A. is directed against Annexure A-1
which is a letter received from the respondents declaring
the tenancy of the applicant to occupy the Railway
Qtr. No. 150/1, Minto Bridge Railway Colony, New Delhi
has since been terminated w.e.f. 23.11.1985 due to
deputation to IRCON. It is admitted by both the parties
that the applicant went to Algeria on deputation on
1.10.1985 and he came back on 22.2.1986. Thus, he was

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in Algeria only for a period of 4 months and 21 days. The learned counsel during the course of arguments stated that he returned India on account of the climate not suiting his health. It is also admitted that on return from Algeria the applicant was posted at the same place where he was working prior to his departure to Algeria and he entered the quarter in which his family resided while he was on deputation to Algeria. The learned counsel for the respondents has placed reliance on the judgement of this Tribunal in case of Rasila Ram & another versus Union of India (CAT(FB)No.1, page 346). This judgement of the Tribunal does not put an embargo on an aggrieved party to approach the Tribunal when there is cancellation of the allotment. He has right to approach the Tribunal when the quarter allotted to him has been cancelled or he can come when the eviction proceedings have been started and he is ordered to be evicted by the respondents. At both the stages, he has right to approach the Tribunal. The ratio of the judgement is that when eviction proceedings started, it would be proper for the aggrieved employee to contest his case before the Estate Officer and may approach the Tribunal only after final orders have been passed by the Estate Officer under the P.P. Act. Thus, this judgement does not help the respondents very much in regard to their contentions. Secondly, the rules produced by the learned counsel for the applicant and the respondents clearly indicate that in case of deputation to IRCON/RITES, a person will be treated as on permanent transfer and he has been given the liberty to pay normal rent for two months and beyond that period he is required to

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pay the market rent. There will be an exception only on account of sickness or on account of educational problem of the children, the house is retained for another 6 months and a specific permission is granted by the competent authority to retain the quarter that he can retain the same on payment of double the normal licence fee for that house. It is not the contention of the learned counsel for the applicant that he had made any such request or that he approached the authorities to allow him to retain this quarter beyond two months on the ground of sickness or on account of discontinuation of the studies of the children. What he has argued is that on account of the bad climate of Algeria he voluntarily returned to India after 4 months and 21 days and he was posted under the same PWI and of the same station and he occupied the quarter where his wife and children were living. A perusal of the record also shows that he had made a request to the respondents to indicate the amount which is due to him. This is Annexure A-5 of the paperbook enclosed with the application and in reply to Annexure A-4 which is a notice declaring him as an unauthorised occupant of the said quarter at Minto Bridge, New Delhi. It is also stated that he has paid the rent indicated to him which has also been received by the respondents. This is Annexure A-6 of the paperbook. If this is true, I do not see any justification in initiating eviction proceedings vide Annexure A-7 of the paperbook. The short question is that if the rules provide that if a man is posted at same station within 12 months he will be restored the priority which he had before his transfer. The question would now arise only when the house is vacated. Here

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the quarter has not been vacated because it was still remained under the occupation of his wife and children who had not accompanied the applicant to Algoria. He never vacated the said quarter allotted to him and the clause regarding transfer stated that for 2 months they will charge normal rent and beyond this period they will charge market rent. In this case the only thing to which the respondents are entitled is payment of market rent beyond two months and nothing less and nothing more. If we read the circulars issued by the Railway Board, the net conclusion that emerges is that the applicant is entitled to retain the quarter for two months on payment of normal rent next and two months & 21 days on payment of market rent. There was no justification for initiating any eviction proceedings. It is not even a case of regularisation. He was posted at the same station and under the same impression he entered the house. He did not apply for reallocation or for any regularisation of the same. This being so, the application succeeds and is allowed. The order at Annexure A-1 is quashed and set aside. The applicant will continue to remain in same quarter but he will be required to pay market rent for a period of 2 months and 21 days. These orders should be complied with within a period of two months.

With the above directions, the O.A. is disposed of but without any order as to costs.

(B. K. Singh)
M(A)

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