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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2571/1996

New Delhi, this 29th day of August, 1997

Hon'ble Shri S.P. Biswas, Member(A)

Shri A.N. Badyopadhyay  
s/o late Shri S.K. Bandyopadhyay  
G-7, Flat No.30  
II Floor, Sector 15, Rohini, New Delhi... Applicant

(By Advocate Shri J.K. Bali)

versus

Union of India, through

1. General Manager  
Northern Railway  
Baroda House, New Delhi
2. Chief Admn. Officer(Construction)  
Northern Rly, Delhi
3. Dvl. Railway Manager  
Northern Railway, Moradabad ... Respondents

(By Advocate Shri R.L. Dhawan)

ORDER(oral)

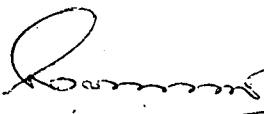
The short question for determination is legality of recovery, payable by the retired employee, from the pensionary relief. Learned counsel for applicant argued vehemently to say that the law prevailing at the time of retirement of the employee (i.e. January, 1992) does not have any provision for effecting any recovery whatsoever from the pensionary reliefs. Drawing support from a number of cases decided by this Tribunal, the learned counsel for applicant submitted that pension rules do not empower the Government to withdraw relief on pension in whole or in part except in the circumstances as provided under Rule 9. It is not, however, in dispute that recovery from pension has since been legalised after 3.1.93 when Railway Servants (Pension) Rules, 1993 came into force.

2. In the counter, learned counsel for respondents submitted that the applicant has not come with clean hands inasmuch as dues from him for unauthorised occupation of the quarter has not been brought out despite having received communication from the Railway Board by him vide Annexure A-3 letter dated 31.3.95. As per the counsel for respondents, applicant continued to be in occupation of the railway quarter even after retirement, i.e. 31.3.92 and he had vacated the premises only on 8.11.94. Obviously, allotment of the said quarter stood cancelled automatically after retention of the same for the ~~per~~missible period. Respondents are, therefore, <sup>legally</sup> ~~entitled~~ in penalising the applicant for payment of damage rent beyond permissible retention under FR 45(a) and subsequently under Rule 45(b) or under the provisions framed by the respective allotment authority. Despite our persistence to show us the final communication permitting the applicant to retain the quarter, learned counsel for applicant drew blank on this issue. He, however, submitted that since the applicant retired in January, 1992, rule for recovery of pension as applicable at that time will be applicable even though the applicant was in unauthorised occupation of the quarter beyond the permissible period after January, 1992.

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3. The fate of the case, therefore, gets decided by Rule 16(6) of Railway Servants (Pension) Rules particularly for the period beyond authorised retention of the quarter. It is not disputed that the applicant is liable to pay damage rent after 3.1.93 when the new Rules came into force. Applicant cannot escape paying rent as per rate shown against him by Annexure R-3 for the period he overstayed.

4. In the light of legal position as aforesaid, this application fails on merit and is accordingly dismissed.  
No costs.

  
(S. P. Biswas)  
Member (A)

/gtv/