

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1/97

New Delhi this the 16th day of September, 1998.

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

Shri Gur Prasad Singh,
S/o Sh. Sheetal Prasad,
C/o Sh. G.D. Bhandari,
advocate.

Applicant

(through Sh. G.D. Bhandari, advocate)

versus

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

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

Respondents

(through Sh. P.S. Mahendru, advocate)

ORDER(ORAL)

Applicant, a retired Assistant Station Master (ASM for short) is aggrieved by A-1 order dated 23.4.96 by which the respondents have deducted Rs. 2781/- from his the D.C.R.G. because of house rent and electricity bill allegedly payable by him to the respondents.

2. The issue that falls for determination is a shorter one and this relates to whether an employee working under the respondents railways in the capacity of an ASM at a particular station could be forced to occupy government accommodation in the facts and circumstances of the case?

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3. The applicant was posted as ASM in the grade of Rs.1400-2300/- at Meerut Cantt. Station under Delhi Division/Northern Railway and was required to perform operational duties pertaining to running of trains. The applicant was allotted railway Quarter No.T-23-A, adjoining the Railway Station Building of Meerut Cantt. Station. The applicant would say that he had vacated the quarter on 12.2.88 and the quarter was not in his possession particularly for the period from 12.2.88 to 23.9.89. This was the period when he was living in his parental house located within the area of 6 Kms. from the station. The applicant would also assert that there is no rule or law or even administrative instructions by which a railway employee could be forced to reside in the railway quarter particularly when he has his own parental house in the same city.

4. Sh. P.S. Mahendru, learned counsel for the respondents submitted that since the applicant was not granted permission to vacate the railway quarter as per letter dated 15.2.88, monthly rent @ of Rs.55/- was deducted from his salary. It is also the contention of the respondents that Quarter No. T-23-A is not a non-pool quarter. Since the quarter was not allowed to be vacated, the charges for the quarter has to be recovered from the applicant as per rules, the learned counsel for the respondents contended.

5. We shall now elaborate the relevant rules. Rules that govern allotment of quarters to Railway staff

at the relevant time is reproduce below:-

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"A railway employee, who own's or has since the allotment of Railway house become owner of a Private House in full or in part, in his/her own name or in the name of his/her dependent father/mother or wife/husband or any dependent child or relative shall not be eligible for allotment or continued retention of a Railway house except in any of the circumstances given hereunder."

6. As per the rules stipulated above, the allotment could not be foisted upon the applicant to live in Government quarter particularly when he was having a parental house of his own within the permissible distance of 6 miles or 9.6 Kms. from his place of duty.

7. To add strength to his contention, Shri G.D. Bhandari, learned counsel for the applicant cited examples of the said quarters being allotted/occupied by different officials, including even by those who did not have operational duties at Meerut Station. At certain point of time it was occupied by Head TCR (a Commercial Official) and at some other point of time it was even being occupied by leave reserve ASM whose duty is not for Meerut but for other road-side stations. The applicant has also quoted the examples of some other ASMs who have been allowed to reside in the parental houses in the same city since long and they were not forced to occupy the Railway quarter within the premises of the Meerut Railway Station.

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8. We find that the Rules which governed the allotment of the said quarter at Meerut is at para 5 above. This rule also governs the eligibility of house rent allowance. This has not been disputed by the respondents. The fact that the same quarter was under occupation of officials belonging to non-operational category has also not been effectively controverted by the respondents. We also find that the applicant in para 4.24 of the O.A. has come out with the details of occupations of the said quarter by other than transportation officials and this has not been rebutted by the respondents railways effectively. It is well settled in law that where a point raised in application is not specifically denied, it amounts to its admission in terms of law laid down by the Apex Court in U.O.I. & Ors. Vs. Prasant Lal & Ors. (SLJ 1992(1) SC 190).

9. The learned counsel for the respondents raised a preliminary objection that the address given by the applicant at Delhi contradict his subsequent submission at A-7 wherein the address has been given in a different manner. In other words, as per the ld. counsel for the respondents, the applicant has made a clever attempt to cover his misrepresentation of basic facts pertaining to jurisdiction of this O.A. This is a case which should have been agitated at the appropriate legal forum. To this the learned counsel for the applicant submitted that the cause of action arose from orders of mainly DRM/Delhi Division and subsequently by orders arising out of Sr. DOS/T Delhi. It is not in

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dispute that Meerut Cantt. Station is within the territorial jurisdiction of New Delhi Division and hence the issue of an order as at A-8 dated 11.5.89 could not be challenged as the same has been issued from Delhi. Under these circumstances, the respondents plea of jurisdiction cannot be accepted. The cause of action did arise from Delhi and the applicant's attempt to agitate the issue in the Principal Bench cannot be questioned.

10. Coming to the merit of the case, we find that there are no rules which could force a railway official to occupy a particular house. The Railways authorities did not issue a Scheme of earmarking houses for certain category of staff at Meerut Station. Under these circumstances, it is difficult to agree with the contention submitted by the learned counsel for the respondents that the Quarter No.T-23-A is a non-pooled one.

11. In view of the detailed discussions aforesaid, the O.A. merits consideration and is accordingly allowed with the following directions:-

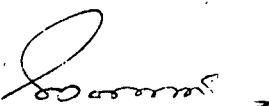
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- (a) The respondents' order at A-1 dated 23.4.96 to the extent of House Rent and Electricity Charges shall stand quashed.

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(b) The respondents are also directed to make the payment of HRA from 12.2.88 to 23.9.89 to the applicant during the period the quarter was not in applicant's possession.

(c) This shall be done within a period of 3 months from the date of receipt of a copy of this order.

(d) There shall be no order as to costs.


(S.P. Biswas)
Member (A)

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