

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,

N E W D E L H I

Regn. No.2424/90

Decided On : 25.4.91

Inder Bir

.... Applicant.

Vs

Union of India & Others.

.... Respondents.

Coram : Hon'ble Mr.Ram Pal Singh,Vice Chairman (J)
Hon'ble Miss Usha Savara,Administrative Member.

Present : Mr.B.S.Mainee,counsel for the applicant.
Mr.B.M.Mani,counsel for the respondents.

O R D E R

USHA SAVARA (AM)

This Application under Section-19 of the Central Administrative Tribunal Act, 1965 has been made against the recovery of Rs.16,263.50 from the salary of the applicant for the period 20.2.86 to 8.10.88 as pernal rent in respect of quarter No.214-F, Arya Nagar, Ghaziabad and also non-payment of house rent allowance for the afore said period as well as electrical charges for the same period.

The applicant was allotted railway quarter No.214-F in Arya Nagar,Ghaziabad in the year 1974. Sh.Raj Pal Singh, who was also working in the Signal Workshop, Ghaziabad, as Section Officer(Accounts) requested the applicant to accommodate him in one of the rooms for which sharing permission could be obtained from the Railway Administration. A joint application was submitted by the applicant and Sh.Raj Pal Singh(Annexure-A-2). Thereafter

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the applicant went to his son's house in Raj Nagar, Ghaziabad for a few days and in his absence Sh.Raj Pal Singh got the said quarter allotted in his favour by the Workshop Accounts Officer. This quarter was not in the pool of Accounts Department and as such the Workshop Accounts Officer had no jurisdiction to allot the said quarter and this could only be allotted by Deputy Chief Signal and Telecommunication Engineer. The Workshop Accounts Officer illegally allotted the said quarter vide notice dated 20.2.86(Annexure-A-3) without even cancelling the tenancy of the applicant. On learning of this development, the applicant lodged complaints against the illegal and unauthorised occupation of the aforesaid quarter to the District Magistrate, Ghaziabad and the S.H.O, Ghaziabad(Annexure-A-4). The respondent No.2 issued notice to Sh.Raj Pal Singh to vacate the railway quarter but he failed to comply. Thereafter the matter was taken up at the level of Chief Personnel Officer, Northern Railway, New Delhi in an informal meeting held with the office bears of U.R.M.U, one of the two recognised Unions of Northern Railway. It was decided that the market rent may be recovered from Shri Rajpal during the period he had been residing in the railway quarter without permission and action should be taken for recovery(Annexure-A-5). Thereafter, the respondents started recovery of the market rent, as also house rent allowance from the salary of Shri Raj Pal Singh.

The respondents issued charge sheet to the applicant for major penalty, alleging that he had handed over the quarter to Sh.Raj Pal Singh without prior permission of the competent authority. An inquiry was held and no

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punishment was awarded to the applicant but the respondents continued to recover house rent allowance from the salary of the applicant and also recovered normal rent for the said quarter from the applicant's salary, although Shri Raj Pal Singh had been in occupation w.e.f 20.2.86. Besides, electricity charges were also wrongfully recovered from the salary of the applicant for the above period. Finally, the Chief Workshop Manager, Northern Railway, Ghaziabad, cancelled the tenancy of the applicant and allotted the quarter in favour of Shri Raj Pal Singh vide notice dated 8.10.88(Annexure-A-7), It is the case of the applicant that although the respondents had recovered normal rent from Shri Raj Pal Singh for the period from February-86 to October-86 and Penal rent from November-86 to September-88 yet they were also recovering house rent from the applicant for the same quarter, which was not in his physical possession. He was also not paid house rent allowance for the above said period and the electrical charges were also recovered from him. The applicant made representations to respondent No.2 to make payment of H.R.A for the period 8.2.86 to 8.10.88 and also to refund the house rent and electrical charges recovered from the applicant for the quarter in question. On the representation of the applicant, respondent No.2. passed orders on 15.6.90 to the effect that the amount deducted as house rent/electrical charges for the period in question may be refunded to the applicant(Annexure-A-1). The bill for payment of Rs.16,263.50 which was prepared by the office of the Signal Workshop has not been cleared by the Accounts Department on some pretext or the other. The application has been filed with a prayer that the

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respondents may be directed to make payment of Rs.16,263.50 to the applicant with interest @ 18% per annum and to refund the amount of Rs.1007.70 recovered from the gratuity of the applicant for electric bills for the period for which the applicant had not occupied the said quarter.

Shri B.S.Mainee, counsel for the applicant submits that quarter No.214-F which had been allotted to the applicant since 1974 was allotted in favour of Shri Raj Pal Singh w.e.f 10.2.86 and Shri Raj Pal Singh has continued to occupy the same quarter since then. Shri Raj Pal Singh had forcibly entered into the quarter when the applicant had gone to visit his son. He prevailed upon the Workshop Accounts Officer to allot this quarter in his favour and vide notice dated 20.2.86, the quarter was allotted to Shri Raj Pal Singh. Since Shri Raj Pal Singh had been occupying the quarter since 20.2.86 it is he who is liable to pay the rent as well as the electricity charges for the quarter for the said period. As soon as the applicant came to know that Shri Raj Pal Singh had got the quarter allotted in his favour, he made complaints to the District Magistrate, Ghaziabad as well as to the S.H.O, Ghaziabad bringing the above fact to their notice and asked them to have the quarter vacated forcibly from Shri Raj Pal Singh. However, no action was taken by them on the complaints of the applicant. Sh. Mainee further submitted that the respondents were illegally charging house rent/electrical charges for the same quarter, for the same period from the applicant as well as Shri Raj Pal Singh and the railway rules do not permit such an illegal and

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arbitrary action. Since the respondents have recovered normal rent from Shri Raj Pal Singh for the period from 20.2.86 to October-1986 and penal rent from November-86 to September-88, therefore the applicant should not be made liable for the same. The competent authority had already decided that the house rent allowance and house rent/electrical charges had been wrongly recovered by the respondents from the applicant. Therefore, there was no justification for withholding refund of the said amount.

In view of this Shri Mainee prayed that respondents be directed to refund the sum of Rs.16,263.50 from the applicant, alongwith the interest to the applicant.

Shri B.M.Mani, appeared on behalf of the respondents and submitted that the applicant had not come to the court with clean hands. The applicant allowed Shri Raj Pal Singh to occupy the quarter without getting the prior sharing permission. He drew our attention to annexures-1&2 being correspondence between Deputy C.S.T.E and General Manager (Engineering), Northern Railway, Baroda House, New Delhi. It was brought to the knowledge of the General Manager that Shri Raj Pal Singh had been occupying railway quarter No.214-F, Ghaziabad since June-1984 alongwith the allottee Shri Inder Bir without prior permission and sanction. Shri Mani further submitted that when inquiries were initiated against Shri Inder Bir, he applied for permission to share accommodation on 9.1.86 and handed over the possession of the said railway quarter to Shri Raj Pal Singh. He also filed complaints with the SHO and the

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A.D.M in order to cover up wilful violation of the conduct rules. The allotment of the quarter by the Workshop Accounts Officer who was not the competent authority was cancelled by order dated 3.4.86 (Annexure-A-3) and since then the allotment of the quarter has been in favour of Shri Inder Bir. Disciplinary proceedings were taken against the applicant for acting in violation of rules but the competent authority took a lenient view as the applicant was due to retire and he was let out with a warning. However, the allotment of railway quarter No.214-F was cancelled vide letter dated 8.10.88. The applicant was, therefore, liable to pay rent and other dues only up to that date i.e. the date on which his allotment was cancelled. There is nothing illegal, arbitrary or discriminatory in this and the application should be dismissed as it is to devoid of merits.

We have heard the counsel for both the parties. The short point to be decided is as to whether Shri Inder Bir was liable to pay the house rent and other charges for quarter No.214-F for the period 20.2.86 to 8.10.88. On going though the application filed by the applicant it is seen that in para-4.5, the applicant admits accommodating Shri Raj Pal Singh in one of the rooms of his quarter, before submitting the application to the railway Administration for sharing the accommodation in accordance with the rules.

Admittedly, the applicant had allowed Shri Raj Pal Singh to reside in the quarter voluntarily. The subsequent

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complaints made by him to the SHO and to the A.D.M are only an eye wash. It is also admitted that the allotment of the quarter by the Workshop Accounts Officer was totally without any jurisdiction and as soon as this came to the knowledge of the railway authorities, they cancelled the allotment on 3.4.86. It is also the case of the applicant that the allotment of the quarter by Workshop Accounts Officer was illegal and therefore, had no legal sanctity. In view of this, the quarter continued to be in the name of Mr. Inder Bir till the allotment was cancelled by the proper authority on 8.10.88. As a consequence the applicant alone was liable to pay the house rent and other charges till the date of cancellation of the allotment of the quarter. The counsel for the applicant has not brought to our knowledge any rule whereby the house rent is to be recovered from the unauthorised occupant of the quarter although we can not but agree with him that the authorities can not charge house rent for the same quarter for the same period from two different individuals. However, since Shri Inder Bir continued to be the allottee of the quarter No.214-F till 8.10.88, he was legally responsible for the house rent/electrical charges upto this period despite the fact that Shri Raj Pal Singh was in physical possession of the quarter.

For the above reasons we hold that the Application is devoid of merits and deserves to be dismissed and we order accordingly, with no orders as to costs.

U. Savara
(USHA SAVARA) 22.4.91
ADMINISTRATIVE MEMBER

R. Singh
(RAM PAL SINGH) 23.4.91
VICE CHAIRMAN (J)