

(5)

Central Administrative Tribunal
Principal Bench: New Delhi

Regn.No.OA-542/90

Date of Decision: 10-8-90

Shri Tilak Raj Sharma

... Applicant.

Vs.

Union of India

.... Respondents.

For the applicant

.... Shri O.P.Gupta,
Advocate.

For the respondents

.... Shri O.N.Moolri,
Advocate.

CORAM: Hon'ble Shri D.K.Agrawal, Member(Judicial)
Hon'ble Shri P.C.Jain, Member(Administrative).

JUDGEMENT

(Delivered by Hon'ble Shri D.K.Agrawal)

This application under Section 19 of the Administrative Tribunals Act, 1985 relates to the cancellation of the allotment order and recovery of penal rent from the applicant who was posted as Electric Foreman(Stores), Diesel Cell in Northern Railway at Delhi except for the period from 3.4.1987 to 9.3.1989 when he had gone ^{to Iraq} on deputation under a contract with IRCON a Public Undertaking.

2. The facts are that after the applicant went away on deputation the Railway administration cancelled the allotment order of Type III Quarter under the relevant rules which required the applicant to vacate the same as soon as he proceeded on deputation. Thereafter, the Railway administration began to charge penal rent. The applicant made representation but to no avail. Aggrieved with the order of cancellation, levy of penal rent and rejection of representations, he filed the present application.

3. We have heard the learned counsel for the parties and perused the records. It is not disputed that the applicant under a contract with IRCON left for Iraq. It is also not disputed that the Railway Board's instructions as contained in letter No.85/W2/22/5 dated 17.6.1986 are to the effect that the Railway employees who opted for deputation to IRCON and other

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named organisations had to vacate Railway accommodation before being relieved to take up their assignment in those organisations. Therefore, the applicant was under the obligation to vacate the quarter in question which he admittedly did not vacate. Therefore, the administration was justified in levying the penal rent. We have verified about the quantum of penal rent about which we entertained ^{some doubt} initially. In the circumstances, we feel that the Railway administration was justified in passing an order of cancellation of allotment as well as levying the penal rent. If so, the representations were rightly rejected. Thus, the present petition has no merits.

4. The only consideration in our mind is as to whether the applicant should be made to vacate the quarter forthwith and also whether he should be charged penal rent from the date of his return to his substantive post in India. On grounds of equity and fair play, we feel that since the applicant is to retire shortly after about a year or so, he may be allowed to continue to remain in occupation of the quarter in question till the date of his retirement on the assessed rent that is, no penal rent need be charged from him from the date of his return, i.e. 9.3.1989 to the date of his retirement. However, we would like to make ^{it} very clear that in case he remains in occupation thereafter, the Railway administration would be justified to charge penal rent according to rules from the applicant.

5. In the result, the petition is disposed of in the light of the observations made above in the body of the judgement, without any order as to costs.

P.C. Jain
(P.C. Jain)
Member (A)

D.K. Agrawal
(D.K. Agrawal) 10.8.90
Member (J)