

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA 617/93

Date of decision:

Shri J.C. Verma

..

Applicant 20-10-93

Versus

Union of India & Others ..

Respondents

CORAM:

Hon'ble Shri C.J. Roy, Member (J)

For the applicant .. Shri B.K. Batra

For the respondents .. Shri H.K. Gangwani

JUDGEMENT

(Delivered by Hon'ble Shri C.J. Roy, Member(J))

The applicant is aggrieved by the letter dated 18.2.93 (Annexure A-1) for effecting recovery of penal rent amounting to Rs.34,608/- from his salary for non-vacation of the railway quarter No.472A, Railway Colony, Saharanpur, on his transfer to Delhi.

2. The facts leading to the filing of this application are that the applicant was appointed as Telegraph Signaller on 24.2.68 at Jhansi, and transferred to Saharanpur, Northern Railway in 1970 and presently posted at Delhi. The applicant alleges that he was allotted the above said railway quarter at Saharanpur on the ground that his wife is a TB patient and when ^{he} was transferred to Delhi on temporary basis, ^{he} he sought permission to retain the quarter at Saharanpur vide representation dated 9.2.87. This was followed by another representation dated 30.9.87 and again on 21.6.88, which is said to be recommended by the Station Superintendent, Delhi vide his letter dated 21.6.88. The applicant made an appeal on 27.3.89 for his transfer to Ambala and for retaining the quarter at Saharanpur on normal rent.

3. However a letter dated 17.1.91 (Annexure A-11) ¹³ was received from I.O.W.(E) Saharanpur by the Station Superintendent, Delhi, asking him to recover a penal rent @ Rs.1442/- per month in respect of the said quarter, even though he was not being paid House Rent Allowance. The applicant has vacated the said quarter on 23.2.1991. The applicant claims that he was not issued ^{with} any show cause notice, neither the eviction proceedings were initiated, nor the allotment was cancelled. He has, therefore, filed this application for quashing the impugned orders dated 18.2.93 and 17.1.91.

4. The respondents have filed their counter denying the averments made in the application. They contend that the applicant requested the Divisional Superintendent of Engineering, Ambala Cantt. that he may be allowed to retain the quarter at Saharanpur upto school session i.e. upto June, 1988 as per extant rules. They also deny receipt of applicant's letter dated 27.3.89 for his transfer to Ambala or the letter dated 12.2.91 of the Station Superintendent, Delhi, recommending retention of the railway quarter. They also aver that the applicant has addressed his letters to different officers and it was not possible for different divisions to reply to them all. However one representation was received through Sr. D.S.O., New Delhi and he was asked to get the quarter vacated with orders to the Divisional Personnel Officer, New Delhi for starting recovery of penal rent and that it was clearly mentioned that the applicant's request for retaining the quarter has been regretted. Thus the applicant found that his efforts for stopping recovery of penal rent were in vain and he immediately vacated the quarter on 23.2.91.

7

5. I have heard Shri B.K. Batra, learned counsel for the applicant and Shri H.K. Gangwani, learned counsel for the respondents and perused the records. 14

6. The short point for consideration is whether or not the penal rent of Rs.34,608/- is to be deducted from the salary of the applicant for the period the applicant was said to be in overstayal in the railway quarter, for which he was not paid any HRA.

7. The applicant was transferred to Delhi on 7.1.87 and he surrendered the quarter on 22.2.91. Thus he was in occupation of the quarter for slightly more than four years. However, the applicant claims to have made representations seeking permission to retain the quarter, the last one being 27.3.89. There is no communication placed before me as to show from which date the penal rent is to be charged and how the above said amount of Rs.34,608/- has been arrived at.

8. At the same time, the contention of the applicant that he was transferred to Delhi only on temporary basis and that he took it for granted that he has been allowed to retain the quarter at Saharanpur is not accepted, especially when the Respondents' letter at Annexure R-1 clearly states that "the applicant may be informed that permission to retain the quarter can not be granted, on his transfer to another Division". It is dated 18.8.88 and in reply to Senior Divisional Security Officer's letter dated 5.7.88 and is endorsed to the Divisional Personnel Officer, New Delhi for effecting recovery of penal rent. However, there is also no record to show that the applicant was issued with a show cause notice nor given an opportunity of being heard.

14

9. In the circumstances, I feel it is a fit case for giving directions to both the parties, as given below:

10. The respondents are directed to issue a proper show cause notice to the applicant specifically mentioning the period of unauthorised/over stay in the impugned railway quarter and the applicant, if he chooses so, may give his representation in support of his claim, within a fortnight from the date of receipt of show cause notice by him. Thereafter, the respondents are directed to dispose of the representation after giving the applicant an opportunity of being heard and recover the penal ment for the period of unauthorised/over stay in respect of the impugned quarter, from the applicant as per extant rules. This exercise shall be completed by them within a period of three months.

11. The application is thus disposed of. No order as to costs.

[Signature]
(C.J. Roy)
Member (J)