

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No./L.A.No. 50/96

Date of decision 27/10/98

Peta Singh

Applicant(s)

C/A

Sri R.K. Nigam

COUNSEL for the
Applicant(s)

Versus

Union of India & others

Respondent(s)

Km. S. Sivasubramanian

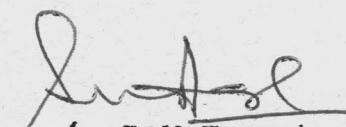
Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. S.K. Aggarwal, V.C./Member (J)

Hon'ble Mr. _____ Member ()

1. Whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporters or not ? yes
3. Whether their Lordship wish to see the fair yes copy of the judgment ?
4. Whether to be circulated to all Benches ? No


(SIGNATURE)

MANISH/

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 50 of 1996

Allahabad this the 27th day of October 1998

Hon'ble Mr. S.K. Agrawal, Member (J)

Teja Singh, aged about 52 years, Son of Shri Kartar Singh, resident of Quarter No. 8-B, N.E. Railway, Ujhani, District Badayun.

...Applicant

By Advocate Sri R.K. Nigam

Versus

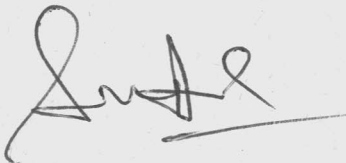
1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, Izatnagar, North Eastern Railway.

Respondents

By Advocate Km.S. Srivastava

O R D E R

By Hon'ble Mr. S.K. Agrawal, Member (J)

 In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash the orders of recovery dated 19.8.94 and 06.9.94 at annexure A-1 and A-2. and to direct the respondents not to effect any further recovery of the penal rent under the impugned orders.

2. In brief, the facts of the case as stated by the applicant are that the applicant was substantively is working as Mechanical Signaller Maintenance M.S.M. Grade I at Ujhani and while working at Ujhani, the applicant was transfer for temporary period to Bareilly where he joined on 22.12.1990. The petitioner was re-transferred back to Ujhani on 19.9.91. It is stated that the applicant was ^{not} allowed any official quarter at Bareilly and he was paying normal rent of the quarter which was under his occupation at Ujhani. It is also stated that the allotment of the said quarter, was not cancelled and the occupation of that quarter was neither declared as illegal by any competent authority and no proceedings were initiated against the applicant under Public Premises (Eviction of Unauthorised Occupant) Act, 1971 but respondents without following the rules are in violation of principles of natural justice issued an order for recovery at the rate of Rs.644/- per month from the pay bills of the applicant. The applicant has submitted his representations dated 27.10.94 but instead of disposing of the representation, the respondents have been continuing recovery from the pay bills of the applicant, therefore, by this O.A., the applicant makes a prayer to quash the impugned orders and not to effect any further recovery of the penal rent ^{under} ~~in~~ the impugned orders.

3. The counter-affidavit was filed by the respondents. In the counter-affidavit it is stated that the applicant was transferred permanently from Ujhani to Bareilly and upon the request of the applicant, he was transferred from Bareilly to Ujhani vide order dated 05.9.91. It is admitted that no quarter was

allotted to the applicant at Bareilly Junction and normal rent of the quarter was deducted from the salary of the applicant which was in his possession at Ujhani, but it is stated that after transfer, the applicant should have vacated the railway accommodation but neither he vacated the said quarter nor moved an application for permission to retain government quarter. Therefore, as per guidelines issued from time to time by the Railway Board, the respondents started recovery of the penal rent from the applicant. The applicant filed representation. ~~The representation~~ was considered sympathetically and the same quarter was re-allotted to the applicant vide order dated 19.8.94. Therefore, the applicant has no case and his original application is to be dismissed with cost.

4. The rejoinder was also filed by the applicant, reiterating the facts as stated in his O.A. and also stated that order of recovery is against the statutory rules.

5. Heard, the learned lawyer for the applicant and learned lawyer for the respondents and have perused the whole record.

6. It is not disputed that the applicant was transferred from Ujhani to Bareilly vide order dated 22.12.1990 and he was re-transferred from Bareilly to Ujhani vide order dated 05.9.91. On the perusal of the pleadings of the parties, it also appears that the applicant did not submit any application for seeking permission of retention of the quarter, which was

in his possession at Ujhani.

7. Learned lawyer for the applicant has submitted that before ~~the~~ recovering the damage rent, opportunity of hearing must be given to the applicant and without initiating proceedings under Public Premises (Eviction of Unauthorized Occupant) Act, 1971, the damage rent cannot be recovered. He has also emphasised the fact that principles of natural justice have been violated, therefore, the impugned orders issued for recovering the damage rent must be quashed.

8. On the other hand, learned lawyer for the respondents has urged that before passing the order to recover ~~the~~ the damage rent, it is not necessary to initiate the proceedings under Public Premises (Eviction of Unauthorized Occupant) Act, 1971 and no opportunity of hearing is necessary before the order of recovery is passed if the damage rent is fixed in accordance with the instructions issued by the Railway Board.

9. I gave my thoughtful consideration to the rival contentions of both the parties and perused the whole record. In the letter dated 17.12.1983, on the subject of retention of Railway Quarter by the Railway employees on occurrence of various events such as transfer, retirement etc., were **incorporate** **on of the railway quarter.** **comprehensive instructions/retention/** The relevant

provision in the said letter reads as under:-

(i) A railway servant on transfer from one station to another which necessitates change of residence, may be permitted to retain the railway accommodation at the former station of posting for a period of 2 months on payment of normal rent. On request by the employee on educational ground or ground of sickness the period of retention of railway accommodation may be extended for a further period of six months on payment of double the assessed ~~rent~~ or double the normal rent or 10% of the emoluments, whichever is the highest.

(ii) If a railway employee requests for retention of the Railway quarters at the former station on the ground of sickness of self or a member of the family retention of the quarter at the former station of posting can be permitted for a total period of upto six months-first two months on payment of normal rent and the next four months or till recovery, whichever is earlier, on payment of double the assessed or double the normal or 10% of the emoluments whichever is the highest. The Railway employee will be required to produce requisite medical certificate from the recognised Medical Attendant for this purpose.

(iii) In the event of transfer during the mid-school/college academic session, as employee may be permitted to retain the railway quarters at the former place of posting for a total period of upto 8 months, the first two months on payment of normal ~~rent~~ and the next 6 months or till the current academic session ends, whichever is earlier, on payment of double the assessed rent or double the normal rent or 10% of the emoluments, whichever is the highest.

10. On perusal of this letter, it is apparent that initially retention can be permitted for two months on payment of normal rent. Further it can be extended for six months on payment of double assessed rent or double normal rent or 10% ~~off~~ the emoluments, whichever is highest.

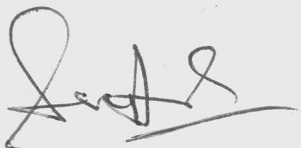
11. In the case of Ram Poojan Vs. Union of India and Others delivered in O.A. No. 936/93, decided on 22.2.96, Full Bench of the Allahabad Central Administrative Tribunal held;

"(a) In respect of a railway employee in occupation of a railway accommodation, in our considered opinion, no specific order cancelling the allotment of accommodation on expiry of their permissible/permitted period of retention of the quarters on transfer, retirement or otherwise is necessary and further retention of the accommodation by the railway servant would be unauthorised and penal/damage rent can be levied.

(b) Our answer is that retention of accommodation beyond the permissible period in view of the Railway Board's circulars would be deemed to be unauthorised occupation and there would be an automatic cancellation of an allotment and penal/damage rent can be levied according to the rates prescribed from time to time in the Railway Board's circular.

39. We further hold that it would be open to the Railway Authorities to recover penal/damage rent by deducting the same from the salary of the Railway servant and it would not be necessary to take resort to proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971."

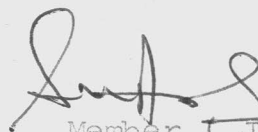
12. As per orders/circulars issued from time to time by the Railway Board, revised rates of damage rent for unauthorised occupation of the railway quarter have been issued and on perusal of those instructions, it does appear that recovery of Rs.644/- per month from the applicant is in accordance with the instructions issued by the Railway Board from time to time and I am of the considered opinion that damage rent is assessed as per the rates applicable in this case and before assessing the damage rent in the facts and



circumstances of this case, no opportunity of hearing is necessary.

13. I, therefore, do not find any illegality/irregularity in the impugned orders and, therefore, no interference is called for and this O.A. is devoid of any merits.

14. I, therefore, dismiss this O.A. with no order as to costs.


Member (J) 27/10/98

/M.M./