

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

Allahabad : Dated this 13th day of October, 2000

Original Application No.987 of 1996

CURAM:-

Hon'ble Mr. Rafiquddin, J.M.

Amar Nath s/o Late Shri Faqir Chand  
R/o Qr. No.479-G-T-II, Railway Colony,  
Saharanpur.

(Sri Rakesh Verma, Advocate)

. . . . . Petitioner

Versus

- 1- Union of India through the  
Divisional Railway Manager,  
Northern Railway, Ambala Cantt,  
Ambala.
2. The Senior Divisional Mechanical  
Engineer, Northern Railway,  
Ambala Cantt, Ambala.

(Sri Amit Sthalekar, Advocate)

. . . . . Respondents

ORDER (O R A L)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant, who was at the relevant time working as Highly Skilled Fitter Grade I at Saharanpur, was transferred to Ambala on promotion vide order dated 21-12-1994. At Saharanpur the applicant was in occupation of Railway Qr. No.479G-T-II, Railway Colony, Saharanpur. The applicant joined at Ambala Cantt on 22-12-1994. The applicant was, however, again transferred from Ambala Cantt to Saharanpur and joined at Saharanpur on 4-10-1995. The applicant states

R

that on account of his family problem including education of his children etc and ~~and~~<sup>R</sup> his promotion order ~~has~~<sup>hasn't been</sup> passed in mid session, he could not vacate the quarter in question under the bonafide impression that permission to retain the same will be granted to him in view of the peculiar circumstances mentioned above. The applicant also claims that he submitted a representation dated 25-4-1994 requesting the respondent no.2 for permission to retain the quarter by the petitioner at normal rent upto the end of school session. According to the applicant rules also permit retention of the quarter under such circumstances. The applicant ~~states~~<sup>states</sup> that respondent no.2 did not reply or pass order on the representation of the applicant. Hence, the applicant admits ~~to~~<sup>ed</sup> retain the quarter under bonafide impression. On his joining at Saharanpur on 4-10-1995, the applicant also made a representation on 7-12-1995 to the respondent no.2 for regularisation of the allotment of the quarter in question. However, the SO-II rejected the same by the impugned order. By means of this OA the applicant challenges the correctness of the order dated 20-2-1996 whereby his request for regularisation of the allotment of the quarter in question has been rejected by the respondent.

2. The main ground taken by the respondents in contesting the claim of the applicant is that the applicant was not entitled for retention of the quarter in question without seeking permission of the competent authority. The applicant failed to apply for retention of the quarter. Hence, the occupation



- 3 -

of the quarter in question is unauthorised and penal rent is liable to be recovered on his salary.

3. I have heard counsel for the applicant as well as counsel for the respondents and perused the record carefully.

4. Learned counsel for the applicant has urged before me that permission was granted by the respondent no.2 to retain the quarter at Saharanpur ~~to~~ <sup>to</sup> some other employee similarly situated, namely, Sri Kailash Chandra and Sri Ram, who were also transferred from Saharanpur to Ambala. Therefore, there is a case of discrimination and respondent no.2 should have also permitted the applicant to retain the quarter at Saharanpur. Learned counsel for the respondents has, however, contended that the case ~~is~~ <sup>of</sup> that the aforesaid <sup>person's</sup> is a different case because they had duly applied for permission to retain their quarters and one of them <sup>was</sup> ~~even~~ Sri Kailash Chandra had vacated the quarter on his transfer to Ambala.

5. I find from the record that there is no satisfactory evidence to show that the applicant applied for retention of the quarter on his transfer from Saharanpur to Ambala. Respondent no.2 should have considered the fact that the applicant has been transferred from Ambala to Saharanpur and has also applied for regularisation of allotment of the quarter in question in his favour and he had earlier also been occupying the same quarter, it would be desirable that the same should be allotted to the applicant from the date he occupied the same on his transfer from Ambala to Saharanpur i.e. 4-10-1995.

R

(14)

- 4 -

However, respondents are justified in recovering from the applicant the penal rent for the period from 22-2-1994 to 3-10-1995 as per rules in respect of the accommodation which was obviously in unauthorised occupation of the applicant. The OA is, therefore, disposed of accordingly. There shall be no order as to costs.

Member (J) *Legg*

Dube/