

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 8th day of August, 2000.

Original Application no. 1278 of 1997.

Hon'ble Mr. M.P. Singh, Administrative Member.

K.L. Sharma,
S/o Shri Govind Sahai Sharma,
R/o Rly., Quarter No. 557/K, Bichiya Rly.,
Colony,
Gorakhpur.

... Applicant

C/A Sri K.S. Saxena

Versus

1. The Union of India (through General Manager, N.E. Rly.) Gorakhpur.
2. The F.A. & C.A.O., N.E. Rly., Gorakhpur.
3. The Chief Cashier, N.E. Rly., Gorakhpur.
4. Sr. Divisional Accounts Officer, N.E. Rly., Varanasi.

... Respondents.

C/Rs. Sri A. Tripathi.

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OR 1287/97

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ORDER

Hon. Mr. M.P. Singh, Member-A.

The applicant ~~is~~ aggrieved by the order passed by ~~the~~ respondents to deduct the damage rent from his salary from July 1995 to May 1997.

2. The case of the applicant as stated by him is that the applicant on his promotion to the post of Divisional Cashier was transferred from Gorakhpur to Varanasi on 29.7.94. He applied for the retention of railway quarter no. 557/K Bichiya Railway Colony, Gorakhpur, ~~which~~ was accorded by the competent authority vide order dated 7.6.96. The Chief Cashier vide letter dated 7.6.96 directed the Divisional Account Officer, N.E. Rly. Varanasi, to make recovery of damage rent with effect from 1.7.95. The applicant addressed a representation dated 22.7.96 to the F.A. and C.A.O. Gorakhpur. In the representation he also made a request for his transfer back to Gorakhpur as per policy decision dated 1.5.80, but the respondents did not do so. Aggrieved by this he has filed this OA. for the following reliefs:-

- i. That the impugned recovery of the damage rent be stopped forthwith.
- ii. That the amount already deducted as damage rent be refunded to the applicant, with interest @ 18% p.a.
- iii. That any relief/reliefs that this Hon'ble



Tribunal may deem fit, considering the facts and circumstances of the case.

iv. That the cost of the case be awarded in favour of the applicant.

3. The respondents in their reply have stated that the applicant has no cause of action because nothing unusual has been done to him. On his transfer he joined at Varanasi on 26.8.94. As per rules he was treated as in unauthorised occupation of Railway quarter and the following rent/damage rent was recovered from him,-

From 26.08.94 to 25.10.94 (for 2 months)

he was permitted to retain quarter on normal rent. From 26.10.94 to 30.06.95 on double the normal rent for 10% of the emoluments whichever is higher and after 30.06.95, damage rent was recovered as the occupation of the quarter was treated as unauthorised.

The applicant himself has made a request (Annexure CA-8) to recover the damage rent in 60 equal instalments. OA is wholly devoid of merit and is liable to be dismissed.

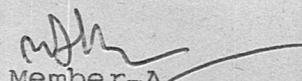
4. Heard the learned counsel for the rival contesting parties and perused the records.

5. It is an admitted fact (para 4.4 of OA) that the applicant himself made a request for the retention of the quarter at Gorakhpur which was allowed by the competent authority and rent/damage rent for the retention of the quarter was fixed in accordance with rules and

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instructions . The contention of the applicant that he was not given a show cause notice for recovering the damage rent is not tenable as the order dated 6.6.96 (annexure CA-5) clearly indicates the manner in which rent/damage rent was to be recovered from the applicant. A copy of this order was forwarded to the applicant. In a similar case in OA~~4~~936 of 1993 decided by this Tribunal on 22.2.96 it has ^{been} held that penal rent can be recovered from the salary without resorting the proceedings under public premises (eviction of unauthorised occupants) Act, 1971. Moreover, the applicant has himself accepted the decision of the respondents to pay the penal rent in 60 equal instalments. In view of the foregoing, the OA does not have any merit and is liable to be dismissed. The OA is accordingly dismissed.

6. There shall be no order as to costs.


Member-A

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