

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD.

Allahabad This The 26th Day of May, 2000

Original application No. 400 of 1998

CORAM:

Hon'ble Mr. S. Biswas, A.M.

Gulab son of Munna,
resident of Village and Post Raibha, District
Agra.

.....Applicant

(by adv Sri A.S. Diwakar)

VERSUS

1- Union Of India Through General
Manager Western Railway,
Mumbai.

2- Divisional Railway Manager (E)
Jaipur, Rajasthan.

.....Respondents.

(by adv: Sri A. Sthalikar)

S. O2

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O R D E R

(By Hon'ble Mr. Biswas, A.M.)

1- Applicant seeks the following remedies.

i) A direction to the respondents to quash order dt 31-3-98 imposing penal rent payable in 28 monthly installments.

2- The case came up for hearing on 25-5-99 when the applicant's counsel took adjournment for illness. Again adjournment was taken by the learned counsel on 17-12-99 through a proxy. The applicant's counsel did not appear on 21-3-2000 and today on 17-5-2000. The applicant has seemingly lost interest in the case. Hence I proceed to decide the case on merits on the basis of records, O.A. and R.A. & C.A. and oral submission of the respondents' counsel.

3- The applicant was transferred from Achhnera to Bandiqui and joined there on 16-10-95. He made an application seeking retention of official quarter upto 31-5-96, in the interest of his children's education which was recommended by Inspector of Works. No accommodation was applied for by the applicant on his own at the new station of posting. A notice for penal rent dt. 11-3-98 by Chief CPWI was served on the applicant to which replied on 17.3.98. Penal rent was assessed @ Rs. 1,018/- per month for 28 months as per Railway Board's circular dt 8-2-90. The rate charged was as per Railway Board's circular dt. 21-12-95 i.e. @ Rs. 28/- per sq metre for 36.37 sq. metre accommodation held by the applicant. This is appropriate and up-to-date rate applicable in respect of plinth and eligibility and ~~tennshing~~. All the factors were taken into consideration.

4- As per Railway Board's circular dt. 8-2-90, only on competent authority's permission, the quarter could be retained ~~at~~ normal rent. The applicant did not submit any statement of his ~~wants~~ as required and no extension was granted. Therefore, penal rent was charged without any extension ^{period} being deducted. This submission has been discussed later in this order.

S. D.

5- The applicant has decidedly overstayed in the quarters beyond his normal 2 months' admissible period. He ought to have vacated the quarter on 16-12-95. But he actually vacated it on 21-3-98.

6- It is an undisputed fact that he had made a representation for retention of the quarter in the interest of his children's education upto 31-5-96 which was recommended. In terms of the circular of the Railway Deptt, the quarter can be retained on transfer upto 2 months on normal rent and upto another 6 months or upto the completion of the running academic year for educational reasons. The representation of the applicant was not disposed of in the hight of this circular. The academic year normally ends by April/May. Hence his application seeking extension upto May/96 was reasonable. It was recommended by the Inspector Of Works. The prayer was rejected on frivolous grounds.

7- The plea that he was not offered any quarter at the new station by the respondents is not tenable. Application for quarters are required to be made by the applicant himself. Omission to do that can not be a ground for retention of the quarter at the previous station. of penal rent.

8- The rate of penal rent has been disputed though, the facts and submissions show that upto date rates of penal rent was worked out.

9- I am, however, of the view that the respondent did not allow the applicant the benefit of the circular which expressly provides for extension of accommodation facility at the old station in the interest of education upto 6 months of completion of educational session. Accordingly, the applicant is eligible to retain the quarter at normal rent upto 2 months normal - 6 months for education purpose. The deduction, it is observed, was otherwise made after granting notice.

S. A

(4)

10- In view of the foregoing the D.A. is disposed of with
~~direction~~ :
the following: The order of the respondent dt. 31-3-96 is modified
to the following extent. The penal rent would be recalculated w.e.f.
1-6-96. Upto 31-5-96 double the normal rent should be charged ~~as per rule~~
Over-Collection if any would be refunded within 1 month of this
order.

11- No order as to costs.

S. Bandy
A.M.

A.A./