

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD.

Allahabad This The 26th Day Of May, 2000

Original Application No. 406 of 1998

CORAM:

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

Murari Lal Son Of Gulab Singh, SM (Electrical Singal
Machanic) Hathras Junction, Resident of 155 A Norther
Railway Colony, Hathras Junction District Aligarh
(Mahamayanagar).

.....Applicant

(by adv: Sri S.K. Lal)

VERSUS

- 1- Union Of India through Divisional Railway Manager
(D R M) Allahabad.
- 2- Divisional Singal Telicommunication Engineer,
Aligarh.
3. Account Officer, Divisional Railway Manager,
Office, Allahabad.

.....Respondents.

(By Adv: Sri P. Mathur)

S - 02

page....2

O R D E R
- - - - -

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

The applicant seeks direction to the respondent for stoppage of deduction of enhanced rent and quashing of the respondents order- though no specific order has been quoted.

2- Heard the counsel for the respondents. Applicant's counsel is not present. Hence the case is being decided on merits on the basis of written submissions of the applicant.

3- The following undisputed facts have emerged in the case in the submissions.

4- The applicant had occupied the official accommodation at Hathras, 156 A Northern Railway on allotment in 1976 when he was posted there. In 1994, the applicant was transferred to Aligarh (Date not specified), from 26-5-94 to Jan, 1995 he worked at Daudkhan on transfer and finally he was transferred to Hathras back on 16-6-95. Meanwhile the respondents imposed penal rent from Jan, 95 to Nov. 96- at different rates. for his continued retention of the quarter at Hathras, on the ground that from 1994 to 16-6-95 he was posted out of Hathras.

5- The applicant has impugned the penal rent on the ground that his transfer to Aligarh and Daudkhan was temporary transfer. He was transferred to Daudkhan in 1995 Jan and was ultimately brought back to Hathras on 16-6-95. Since he returned to Hathras by June, 1996, it should be treated as a case of temporary transfer and the rental during the period should have been

S. - B.

regularised, according to Chap. 7 R (2) of General Rule of Housing staff Northern Railways. Employees returning to the same station after serving a temporary transfer are permitted to retain the quarters at normal rent. Collection of enhanced rent ~~is~~ from the applicant is in violation of Rule 2 of Chap. 7 of General Rule Of Housing Staff. The applicant on his transfer to Aligarh in 1994 ~~he~~ had made representations for retention of the quarter in the interest of his children's education- which has also not been heeded to. His representation dt. 23-12-96 to Divisional Rail Manager (N R). Respondent N. 1 has not been decided Apart from this, the applicant annexed another letter dt. 4-1-97 addressed to Senior D.S.T.E. NR who is not a respondent.

6- Respondents counsel has contended that the transfer of the applicant from Hathras to Aligarh in 1994 was on promotion of the applicant. He was a Khalashi and was promoted as EM grade III. Hence, he was not eligible to retain his quarter beyond the time schedule given in the rules. The retention of the quarter was unauthorised as per the rules.

7- The applicant did not specify that he had given any application for retention. for educational purpose, A copy of the same has not been annexed.

8- The respondents counsel on the contrary has contended that a formal show cause notice dt. 29-4-94, was served on the applicant on 8-5-94, before charging penal/ damage rent for

S. B. B. B.

unauthorised retention of the said quarter. The instructions of the Board empowering the authorities to charge penal rent are contained in circular dt. 21-9-89.

9- As regards applicability of R-2 of Chap VII referred to, the respondents' counsel's contention is that applicant was transferred from Hathras on promotion on 9/9/93 and he came back to Hathras on his request on 16-6-95. His tenure of posting out of Hathras is more than one year to be eligible for the benefit under R(2) Chap VII

10- The applicant was transferred out of Hathras as per promotion order dt. 9/9/93, which was in the middle of the academic session. Though his application for retention is denied to have been received, the concerned authority ^{while deducting} penal rent from Jan 95, has given due allowance for the full academic session upto Jan, 1995. The applicant was brought back to Hathras in Jan, 1995 on retransfer. No penal rent can be legally deducted from that date, as the applicant's headquarters was ^{again} Hathras from that date.

11- In view of above facts and circumstances of the case, the O.A. is disposed of with the following modifications of the order on penal rent as statedly deducted from the salary of the applicant.

12- Order of recovery of Penal rent w.e.f. 16-6-95 is quashed. Rent at normal rate would only be deducted. Rent recovered in excess, if any w.e.f. 16-6-95 be refunded with 11% interest.

13- No order as to costs.

S. B. *[Signature]*
A.M.

A.A./