

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD.

Allahabad This The 15 Day Of JUNE, 2000

Original Application No. 50 of 1998.

CORAM:

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

Har Prasad son of Sri Hminchal Pd.

aged about 48 years resident of

Postal Colony Quarter No. 18,

Bareilly Cantt, Bareilly

.....Applicant

(By Adv: Sri R.P. Singh)

Versus

1- Union Of India through Secretary Ministry

of posts and Telegraphs, New Delhi.

2- Director Postal Services, U.P. Circle,

Lucknow.

3- Senior Superintendent, R.M.S.

'BL' Division, Bareilly

.....Respondents

(By Adv: Km. S. Srivastava)

.....2

S. Biswas

O R D E R
- - - - -

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

The applicant presently a Gr. 'C' employee of the postal deptt. at Bareilly Cantt has impugned the vacation order dt. 23-4-97 of Prachar Adikshyak, Dak-Tar Bareilly and the Penal rent implementation order 1-7-97 of Adhikshyak Bareilly. He has sought quashing of these orders and consequential reliefs like direction to the respondents not to interfere with the peaceful occupation of the official accommodation Quarter No. 18, allotted to him on 18/6/84 for use during the tenure of his posting at Bareilly.

2- Heard the both the parties. Certain undisputed facts and circumstances of the case which have emerged through the rival submissions are as under.

3- The applicant is presently a group 'C' employee of the postal deptt. The postal deptt. quarter No. 18 at Bareilly in question was allotted to him on 18/6/84 when he was a Gr 'D' employee. But soon there after he was promoted to Gr. 'C' charge on 1-5-87 (According to the respondent on 7-5-87) and continued to occupy the same quarter No. 18 which was allotted to him as Gr. D staff. No question was raised about the propriety of occupying the said quarter by the applicant till about 10 year when on 23-4-97, the senior Supt of post offices (Respondent 3) gave a vacation notice at the applicant inter alia questioning the propriety of his continuing in a quarter meant for Gr. D staff. It has been clarified that Respondent 3 is competent to serve such notice being the Allotting Authority for Govt. Quarter at Bareilly. After giving several ~~of~~ other notices dt 29-5-97 and 4-6-97 for vacation, ultimately, when the ^{applicant} applied allegedly failed to comply, he was declared an ~~unauthorised~~ ^{GB} ⁵² occupant of the said quarter though he ~~shall~~ continue to be officially posted at Bareilly,

S. Biswas

the respondent 3 declared the occupation, unauthorised and imposed the higher penal rent of Rs. 40/- per sq. metre of area (plinth) vide order dt. 24-6-97 and implementation dt. 1-7-97. The latter dt. order along with vacation order dt. 23/4/97 have been impugned and a cause of action has been made out.

4- The applicant has further contended that at no stage an alternative after for another quarter where he could shift in the event of his vacating the quarter no. 18. ^{BB uses male} In other words he was being forced to vacate the quarter without any rhyme or reason and ^{that he} had ~~be~~ done so, he with his wife and children would have been on the street.

5- The applicant made a representation against the impugned vacation notice dt. 23-4-97, on 2-5-97 that he was paying a higher rent though he was occupying a quarter less below his entitled type. There are no rules to order vacation of a quarter during the tenure of posting on the ground that he was holding lesser below type. A second representation dt. 26-5-97 to different higher authority has not been responded. In the mean time, the senior supt of Post offices began realising Rs. 1440.40 per month as penal rent from his salary, when he moved the court and obtained an interim stay order on 23-2-98 from this Tribunal.

6- The respondents' counsel has clarified that vacation notice and imposition of penal rent had become necessary to be ordered as a joint complaint from three union federation of RMS was received. They complained that the sons of the applicant were involved in quarrelling and manhandling activities in the R.M.S. quarters. They demanded vacation of the quarters by the applicant for maintenance of peace in the quarters. The vacation notice and imposition of penal rent, as the applicant did not vacate, as ordered, is a sequel to these complaints, which do not

S. Bee

appear to have been departmentally inquired.

7- The respondents' counsel is not able to produce or show any rule in the first place by virtue of which a govt. servant can be evicted from the official accommodated allotted to him formally by the competent authority during the tenure of his posting at the same station. There are no evidence on record that the said quarter was abused for any non-bonafide residential purpose. There are, to the best of my knowledge, no rules under the allotment and eviction guidance to evict an occupant from official accommodation simply because the children are involved inquarrell which is a two way affair. The right authority to take cognisance of such incidents which have gone violent and criminal in colour, is the police. It is not the case of the respondents that they or any other party had lodged any FIR.

8- ^{here} If indeed ~~there~~ was any gross unbecoming conduct ^{on the} ~~as part~~ ^{of} ~~in~~ ^{SB} of the applicant in the colony, for that the simple understanding is that disciplinary proceedings should have been initiated. It is also not the case of the respondents that they even contemplated ~~at~~ any disciplinary case. Even if that had been the recourse, it is only to be reminded to the respondents who has resorted to this extra-departmental and extra-official punishment by ordering vacation of the departmental quarter, failing to execute that, imposition of penal rent, that order vacation or imposition penal rent is not any of the prescribed penalties under the conduct rules. Under which rules and authorities, Could the respondent ^{order} ~~order~~ vacation of a departmental quarter by an employee who is ^{currently} ~~correctly~~ posted there and is there for over 10 year ? None. These orders evidently have no sanction of rules, ^{SB} ~~and~~ ^{the} ~~by~~ is a case of grossly imaginary understanding of power, which are non-existent. The respondents are not able to show under which

S. B. C.

rule the respondent could take cognisance of one below type occupation, warranting eviction on that ground. It is not the case of the deptt that an appropriate alternative accommodation was offered to the applicant before initiating eviction - they went to far to the extent of imposing penal rent orders. Both actions are decisively illegal orders. The respondents have to address these questions to themselves.

9- Consequently, the O.A. is allowed, order of eviction notice dt. 23-4-97 ~~are~~ quashed. The interim order dt. 23-2-98 is made absolute. If any penal rent has been deducted in the meanwhile, the same ~~should~~ be refunded within one month of receipt of this order with 18% interest.

No costs.

S. Baru
A.M.

A.A./