

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 17th day of April 2001.

Original Application no. 766 of 1998.

Hon'ble Mr. SKI Nagvi, Member-J.

Smt Rose Snehlata Poplae,
W/o MG Maurya, Ex. Matron, Gr. II,
Loco Hospital, Mughalsarai,
R/o Amoghpur,
near Panchayat Bhawan,
PO Mughalsarai,
CHANDAULI.

... Applicant

C/A Shri K.Kumar
Shri AC Tewari

Versus

1. Union of India through General Manager,
Eastern Railway, Fairlee Place,
17-Netaji Subhash Road,
Calcutta.
2. Divisional Railway Manager, E. Rly.,
Mughalsarai,
CHANDAULI.
3. Estate Officer, Eastern Railway, DRM Office,
Mughalsarai, Distt. Chandauli.
4. Medical Supdt., Loco Hospital, E. Rly.,
Mughalsarai, Distt Chandauli.

.. Respondents

C/Rs. Sri KP Singh

S. Chaudhary
...2/-

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O R D E R (Oral)

Hon'ble Mr. SKI Naqvi, Member-J.

While in service of respondents, the applicant retired on 30.9.95 from the post of Matron at Railway Hospital, Mughalsarai. She retained the railway quarter no. 687-A New Central Colony, Mughalsarai, even after her retirement, for which she sought for permission and for the first time permitted to retain the same from 21.9.95 to 31.3.96 and secondly she was further permitted to retain this quarter from 1.4.96 to 31.5.96.

2. As per applicant's case she remained in occupation of quarter in question even after 31.5.96 under compelling circumstances and could vacate it only on 6.1.97. In support of her contention, she has filed copies of his request and intimations as Annexure A-6, A-7 and A-9, which have been addressed to the competent authority with copies endorsed to superior authority in the department. The respondents holding her to be unauthorised occupation in this quarter, imposed penalrent from 1.6.96 to 12.5.97 and deducted the amount from her DCRG claim.

3. The respondents have a case that the applicant did not actually vacated on 6.1.97, but remained in occupation ~~xx~~ ~~xx~~ of quarter in question upto 12.5.97.

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

Sree

...3/-

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5. The facts in controversy are in very narrow campus. As per applicant's case, she retained the quarter in question even after 31.5.96 under compelling circumstances without any permission of authority till 6.1.97, when she vacated it. But the respondents have a case that it was from 1.6.96 to 12.5.97 that the applicant remained in unauthorised occupation of quarter in question.

6. The pleadings from the side of the applicant and the documents filed in support there of appear to be more convincing. As per annexure A-6, A-7 & A-9, the applicant has come up with clear assertion that she intimated the authorities concerned that she has already vacated the quarter in question on 6.1.97 and there is nothing from the side of the respondents that the matter was immediately inquired into and was not found to be as asserted by the applicant. There is a narration of development of events in paras 12, 13 & 15 of counter affidavit, but the language used is, as it comming from the authority whose version cannot be rebutted, though it is a great folly on the part of officers in the respondents establishment that what they say, that is to be taken as final word. They ought to have brought on the record the documents which have been referred therein, so as the same could have been subjected to ^{list to} judicial ^{list} find out their vericity and correctness and, therefore, the contention in the counter affidavit cannot be relied upon or taken as sound basis to conclude and to give findings ^{according to pleadings herein.} thereon.

See

...4/-

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7. For the above I find that the applicant is liable to pay penal rent only for the period between 1.6.96 to 6.1.97 and not for the period, thereafter. Learned counsel for the applicant took us through decision rendered by the Calcutta Bench of the Tribunal in Adhir Kumar Nath Vs. Union of India & Others in OA 152 of 1988 decided on 15.1.92 on the point of liability to pay normal rent and not penal rent, but the same is no more valid as precedence in view of Ram Pujan Patel Versus Union of India & Others, 1996 (1) ATJ 540 (FB) CAT Allahabad Bench.

8. The competent authority in the respondents establishment are directed to determine the amount for which the applicant is liable to pay the ~~penal~~ ^{same} rent in the light of above observation and make payment of the excess amount deducted from the DCRG of the applicant within three months from the date of this order.

9. It is not a case in which the respondents may be saddled with interest. No order as to costs.

S. C. Mehta
Member-J

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