

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

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O.A.No.991/98

Allahabad, this the 24th day of March, 1999.

CORAM : Hon 'ble Mr. S.K.Agrawal, Member (J)

Mohd.Saeed, S/o. Shri Abdul Samad,
R/o. Rly.Qr. No.181/N, Rly. Colony,
TUNDLA.Applicant.

(By Shri K.S.Saxena, Advocate)

Versus

1. The Union of India (through General Manager,
Northern Railway, Baroda House, New Delhi.)
2. The Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Divisional Mechanical Engineer (Power),
Northern Railway, DRM Office, Allahabad.
4. The Senior Section Engineer (Loco),
Northern Rly. Tundla, Distt.Ferozabad.

.....Respondents.

(By Shri A.K.Gaur, Advocate)

O R D E R (Open Court)

(By Hon 'ble Mr.S.K.Agrawal, Member (J))

In this original application the applicant makes a prayer that recovery of penal rent and recovery of arrears of penal rent made from the salary bills of the applicant be stopped forthwith and penal rent already recovered may be refunded to the applicant with interest.

2. Facts of the case as stated by the applicant are that the applicant was allotted railway quarter No.181/N

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in the year 1984 at Tundla. Thereafter the applicant was transferred to Chunar on temporary basis and the applicant was compelled to leave his family at Tundla in the aforesaid quarter. It is stated by the applicant that applicant did not apply any railway quarter at Chunar and he stayed at Chunar from 23-10-89 to 9-1-92. During this period he remained in occupation of the said quarter. The normal rent was recovered from the salary bills of the applicant, but surprising enough the respondents started recovering penal rent from the salary bills of the applicant which exceeds 10% of the total emoluments and which is irregular and against the rules.

3. Counter was filed. In the counter it was stated that the applicant remained in unauthorised occupation of the said railway quarter with effect from 23-10-89 and a notice to this effect was also issued on 14-11-91 to the applicant for recovering damage rent @ Rs.238=05p per month from the salary of the applicant. It is stated that the applicant was transferred by the competent authority from one station to another and he was required to vacate the railway quarter but applicant inspite of joining at new place of posting remained in unauthorised occupation/possession of the said quarter without obtaining any permission from the competent authority. Therefore according to the rules the said penal rent was imposed upon the applicant and there was no need to cancel the allotment before imposing the penal rent upon the applicant. It is also stated that applicant has also filed earlier litigation. Therefore this O.A. is not maintainable on this count also. Therefore, in view of the counter filed by the respondents it was stated that this O.A. has no merit and is liable to be dismissed.

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4. Rejoinder was filed reiterating the facts stated in the O.A.

5. Heard the learned lawyer for the applicant and learned lawyer for respondents and perused the whole record.

6. Learned lawyer for the applicant submitted that before imposing penal rent upon the applicant no opportunity of hearing was provided to the applicant and he was charged penal rent with retrospective effect, whereas the normal rent was recovered from the applicant by way of salary bills. It is also submitted by the learned lawyer for the applicant that the penal rent charged from the applicant is not in accordance with the rules. Therefore, the respondents be directed not to make any recovery from the applicant.

7. These arguments of the learned lawyer for the applicant were objected by the learned lawyer for respondents and stated that penal rent was charged from the applicant as he remained in unauthorised occupation and the same was charged according to the rules prevailing for this purpose notice was also given to the applicant. Therefore it cannot be said that no opportunity was given to the applicant.

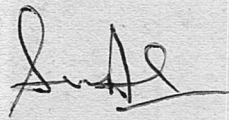
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8. It is not disputed that applicant was transferred from Tundla to Chunar. It is also not disputed that applicant did not submit any application for retention of this quarter on any ground.

9. As per orders/circulars issued from time to time by Railway Board, the retention of the quarter is permissible maximum for the period of eight months. As per orders/circulars issued from time to time by Railway Board revised rates of damage rent in unauthorised occupation of the railway quarter have also been issued and on the perusal of those instructions it appears that rate charged from the applicant is inconsonance with the circulars issued.

10. In Ram Poojan Vs. Union of India and others delivered in O.A.No. 936/93 decided on 22-2-96 the full Bench of Allahabad Central Administrative Tribunal held :

- (a) In respect of a railway employee in occupation of a railway accommodation, in our considered opinion, no specific order cancelling the allotment of accommodation on expiry of their permissible/ permitted period of retention of the quarters on transfer, retirement or otherwise is necessary and further retention of the accommodation by the railway servant would be unauthorised and penal/ damage rent can be levied.
- (b) Our answer is that retention of accommodation beyond the permissible period in view of the Railway Board's circulars would be deemed to be unauthorised occupation and there would be an automatic cancellation of an allotment and penal/damage rent can be levied according to the rates prescribed from time to time in the Railway Board's circular.
- (c) We further hold that it would be open to the Railway Authorities to recover penal/damage rent by deducting the same from the salary of the Railway servant and it would not be necessary to take resort to proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971."



On the basis of the above judgement delivered by the full Bench of this Tribunal it is clear that if employee

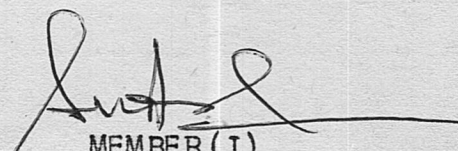
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is in occupation of a railway accommodation and does not vacate it on transfer, retention of the accommodation allotted beyond limits is deemed to have been turned as unauthorised and penal rent/damage rent can be charged for the period from the concerned employee.

11. I do not find any legality/irregularity in charging damage rent from applicant. Therefore applicant has no case and no interference is called for in this original application.

12. I, therefore dismiss this original application with no order as to costs.

Interim order granted stands vacated.


MEMBER (J)

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