

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 10/12 day of December, 1999

Original Application No. 1448 of 1998

District : Chandauli

CORAM:-

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

V.K. Dubey,
S/o Sri H.S. Dubey,
posted as E.T./M.G.S., Mugal Sarai Jn.,
Railway Station, District Chandauli.

(Sri R.K. Pandey, Advocate)

..... Applicant

Versus

1. Union of India
Through D.R.M. (Pay Bill),
Northern Railway, Allahabad.
2. Divisional Account Officer,
Northern Rly,
Allahabad.
3. C.I.F.C.(L.R.),
Northern Railway,
Allahabad.

(Sri Prashant Mathur, Advocate)

..... Respondents

ORDER

The applicant is represented by Sri R.K. Dubey, Advocate. The respondents are represented by Sri Prashant Mathur, Advocate. According to the applicant, Sri V.K. Dubey, E.T./M.G.S. Mugal Sarai Jn, under Northern Railway, a temporary transfer order was served on him on 20-1-1996. By this order he was transferred from Allahabad to Mugal Sarai. Thereafter he made an application to D.R.M. Northern Railway, Allahabad v his application dated 22-2-1996 to retain his Quarter No. 159/B, at Naini, Allahabad on the ground of his children's education. His wife Smt. Rama Devi is a patient of heart and blood pressure. A second application was made on 8-10-1996 before the D.R.M.

S. Biswas

Allahabad for retention of the quarter for a further period. He also mentions that his transfer to Mugal Sarai was on temporary basis as Assistant Driver (Electric Shunter). A further application was made on 3-1-1997 by the applicant on the question of retention of the quarter.

2. Suddenly from the month of September, 1999 the authorities began deducting penal rent for not ~~vacating~~ ^{vacating} the quarter in Allahabad @ 60% of the salary. The applicant had cited this as the main cause of action for filing the application. The said quarter was allotted to Sri J.N. Patel, Assistant Driver on 26-10-1998 when the applicant surrendered the quarter without any delay. His application for retention of quarters in the interest of his children's education at Allahabad and for medical treatment of his ailing wife was not considered and the penal deduction was commenced from his salary @ 60% thereafter w.e.f. September, 1998 which is highly contrary.

3. The counsel for respondents, Sri Prashant Mathur contested the application stating that from 16-1-1996 to 26-10-1998, when the applicant had retained the quarter after transfer to Mugal Sarai was an unauthorised occupant of the departmental quarter in terms of instructions dated 21-9-1989 and 15-10-1990 (Annexures CA-1 and CA-2). Learned counsel for the respondents also contested the submission that the applicant was transferred temporarily to Mugal Sarai as he was actually transferred on promotion as Electric Shunter as per the order dated 16-1-1996. This was also on administrative ground. The validity of the guidelines contained in the Circular dated 21-9-1989 and 15-1-1990 was confirmed in the case of 1996 Vol 34, ATC 434 by *S. W. C. A.*

a Full Bench. Therefore, the application is not maintainable and penal rent for overstay for the entire period is deductible and accordingly the recovery was initiated.

I have considered the submissions of both the sides. The applicant had made several representations ^{after} transfer to Mugal Sarai for retention of the quarters in the interest of his children's education and on the ground of health of his wife. The first application is dated 22-2-1996 i.e. immediately after his transfer to Mugal Sarai. The applicant has submitted thereafter three more representations, for extension of his stay in the quarter for the same reasons. I have looked into the departmental instructions regarding retention of quarter and permission for charging penal rent as appearing in Annexure CA-1 and CA-2 dated 21-9-1989 and 15-1-1990. It is clearly laid down in this Railway Instruction that a Railway employee on transfer from one station to another which requires change of residence, would be permitted to retain railway quarter for a period of two months on payment of normal rent. On further request by the employee, the extension can be given for another six months on payment of special licence fee i.e. double of flat rate. Even further extension beyond this period can be considered for another period which may be adequate to cover the remaining year of the current academic session on payment of special licence fee.

4. Apparently, therefore, the respondents have not observed these regulations to deal with the case of the applicant who had regularly made application for extension of time for retaining the quarter on the same very ground. There is no justification for the respondents now to say that the penal rent for the entire period was payable as per these regulations.

S. D. *[Signature]*

5. The respondents, however, have taken the plea that the application for extension was not received. It is not possible to accept this as there are several applications and had the applicant not done so, he would not have been so hard ^{pressed} ~~placed~~ to come to the Tribunal. Since the regulations for accommodation of the employees are very much there on transfer to permit them to retain the quarter, the OA is maintainable. The respondent nos. 2 and 3 would, therefore, take immediate steps to take all these representations on file and consider the request of the applicant favourably as he has substantial cause to ask for retention of his quarter at Allahabad on the ground of education and health. It is directed that the first eight months from 21-1-1996 to 20-9-1996, the applicant is liable to pay normal rent against his application. For another six months upto 20-3-1997, the applicant is liable to pay at double the normal rent, as the academic session for his children was ending ^{For} ~~only~~ in February/March. ~~the~~ the period from 20-3-1997 to 20-9-1997, the applicant is also liable to pay at double the normal rent. With the above direction the OA is disposed of with no order as to costs.

S. Dube
Member (A)

Dube/