

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 499 of 1992

Allahabad this the 19th day of October 2000

Hon'ble Mr.S.K.I. Nagvi, Member(J)

R.B. Barun, S/o Late Shri J.P.P. Barun, aged about 54 years, R/o Railway Quarter No.F-61, Agra Cantt., working as Mechancial Foreman in grade Rs.2375-3500(RPS) Loco Shed, Gwalior under Divisional Railway Manager, Jhansi(U.P.)

Applicant

By Advocate Shri H.P. Pandey

Versus

1. The Union of India through the General Manager, Central Railway, GM's Office, Bombay V.T.
2. The Divisional Railway Manager, Central Railway, Jhansi Division, D.R.M.s Office, JHANSI (U.P.).
3. The Senior Divisional Mechanical Engineer, Central Railway, Jhansi Division, D.R.M.s Office, Jhansi(U.P.)

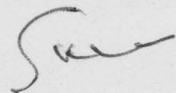
Respondents

By Advocate Shri Prashant Mathur

O R D E R (Oral)

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

Shri R.B. Barun has come up seeking relief to the effect that the respondents be directed to refund the amount of rent, which was recovered from the applicant with effect from 18.2.1987

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in excess of normal rent and also to withdraw the impugned orders dated 12.4.1990 and 08.8.90/03.9.90 and also for a direction to dispose of the applicant's representation for sending him back to Agra. During the course of arguments, learned counsel for the applicant mentions that ~~under~~ ⁱⁿ the changed circumstances, now he does not press for relief in respect of order dated 08.8.90/03.9.90 and also his prayer for being transferred back to Agra and, therefore, the controversy in the O.A. remains only in respect of deduction of rent from the salary of the applicant, in excess to normal rent.

2. As per applicant's case, while he was posted at Agra, he was allotted a railway quarter at Agra, which he retained even after his temporary transfer to Gwalior initially for four months and extended from time to time. The respondents had taken this transfer as regular transfer and not temporary transfer, and, therefore, deducted rent from his salary in excess to normal rate, as panel or damage rent. As per applicant, he was entitled to retain the quarter at old duty station inspite of his temporary transfers and therefore, not liable to pay rent in excess to normal rate.

3. The respondents have contested the case and filed the counter-reply with the mention that no doubt the applicant was temporarily transferred, but after approval from competent authority

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the post was sanctioned and his transfer was permanent transfer and thereby he unauthorisedly retained the railway quarter at Agra and for this period of unauthorised occupation, he is liable to pay panel/damage rent, which was recovered from his salary as per rules in this regard.

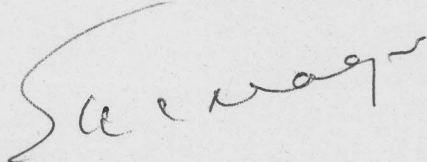
4. Heard, Shri H.P. Pandey, learned counsel for the applicant and Shri Prashant Mathur, learned counsel for the respondents and perused the record.

5. It is not in dispute that on temporary transfer and employee can retain the railway accommodation at the old duty station for a further period as admissible on permanent transfer on payment of rent as ~~per~~prescribed therefor, ~~from~~ from the date on which the employee is informed of the permanent transfer and also that during the entire period of temporary transfer, an employee may be permitted to retain the quarters at former place of posting on payment of normal ~~rent~~^{rate}/flat ~~rate~~^{rate} of licence fee/rent. As per Railway Board's order on establishment dated 22.11.1988, temporarily transferred employee may be permitted to retain the quarter at former place of posting on payment of normal rent. The applicant could ~~get~~benefit of this provision if his request to retain the quarter was allowed and he had been permitted to retain the same, but as per facts of the present matter, no permission was granted to the applicant and his application remained undisposed. Learned counsel

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for the applicant emphasise that since the rejection of the application was not communicated and the application was kept pending without order, therefore, it shall be assumed that it was granted. This submission is not acceptable under law as the ^{presumption} ~~permission~~ may be otherwise, but not in positive. Learned counsel for the applicant also referred ratio in T.A.No. 131 of 1986 M.A. Latif Khan Vs.U.O.I., decided by C.A.T. Jabalpur Bench on 29.7.1988. In that matter, the relief was granted on equitable ground under ~~specific~~ facts and circumstances of that matter and, therefore, cannot be followed as law laid down.

6. For the above, I find that the relief sought for, cannot be granted. The O.A. is dismissed accordingly. No order as to costs.


Member (J)

/M.M./