

CENTRAL ADMINISTRATIVE TRIBUNAL, Allahabad Bench

Allahabad.

Allahabad This The 3/5/ Day of May 2000  
Original Application No. 1621 of 1994

CORAM:

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

Shri Nirapada Sarkar, S/o Late A.C. Sarkar,  
aged about 60 years Retired Divisional  
Commercial Manager, Northern Railway Allahabad  
resident of HIG 21, ADA Colony, Nim Sarai, Allahabad.

.....Applicant

(By Advocate: Sri Rakesh Verma)

Verus

- 1- Union Of India through General Manager,  
Northern Railway, Baroda House, New Delhi.
- 2- Divisional Railway Manager, Northern  
Railway Allahabad.
- 3- Senior Divisional Personnel Officer,  
Northern Railway, Allahabad.

.....Respondents

(By Advocate: Sri A.K. Gaur)

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page.....2

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

The applicant, a retired Railway employee since 30-4-93, has sought the following remedies in the O.A.:

i) Direction to the respondents to release a sum of Rs. 37,114.92 deducted as damaged rent for the quarter 10 A.G.T. Road Kanpur along with interest,

ii) Direction to the respondents to pay house rent allowance @ 600/- per month from Jan. 89 to April 90 with interest.

iii) Direction to pay interest on delayed payment of commuted pension, LIC, leave encashment, by the respondents; The applicant retired on 30-4-93 but these pensionary dues were paid delayedly only on 17-8-93.

2- Heard the parties.

3- According to the contentions of the applicant, he retired on 30-4-93 from Railways deptt on superannuation. In course of his service he was transferred on promotion from Kanpur, where he was holding the charge of Assistant Superintendent, Kanpur Area, to Allahabad as Divisional Commercial Manager. Though he was transferred on promotion, no releiver was given at Kanpur, which is why, he held dual charge from the dt of promotion on 30-12-88 to 30-5-89. When he was relieved of the dual charge in Kanpur.

4- In the situation he could not shift his family to Kanpur, where no quarter was offered to him. He had represented for extension of departmental quarter facility in Kanpur upto Aug 89 as he had, due to the compulsion of the dual charge upto May 89, got his children admitted in Kanpur itself.

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5- When he was ultimately relieved of his dual charge in May 89, he, further, made out his case for retention of his quarter at Kanpur upto April 90 in the representation dt. 28-8-89(Annex-1).

6- The authorities took no action on his application, but also did not pay him the eligible house rent allowance @ Rs. 600/- per month from Jan.89 to April 90 for about 15 months. The applicant sent another representation for this purpose to the respondents on 10-5-90.

7- As full pensionary benefits were not paid by the respondents another representation dt. 15-11-93 was sent upon.

8- Ultimately on 17-12-93 the Adm. Divisional Manager of the Railways passed an ex post facto order w.e.f. 1-6-89 to 31-8-89 for the occupation of quarter at Kanpur for two months to be treated as on normal rent and thereafter from 1-9-89 to 3-4-90 (is the dt. of vacation) on a special licence fee of twice the rate. Not satisfied the applicant made another representation dt. 20-11-93 for condonation of ~~double~~ rated rent from 1-9-89 to 3-4-90.

9- The applicant made further representation on 30-4-94 to settle the dues and release the amount held back. Neither this nor that was done - giving rise to this cause of action.

10- The applicant has further mentioned that allotment of the quarter at Kanpur was not cancelled. Nor he was given any ~~show~~ cause on the question of penal rent. Hence the penal rent is liable to be quashed. and full house rent allowance for the period 15 months (Supra) are liable to be paid with interest. In Avdesh Kumar Vs. U.O.I. (1994) UPLBEC Tribunal page 7 it was held that

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without opportunity to be heard neither the allotment order could be cancelled nor penal rent charged.

11- In view of R.Kapoor Vs. Director Of Inspection case, it was held that death cum retirement gratuity cannot be held back for non-vacation of deptt's quarters. The applicant's contention is that these dues are liable to be paid with interest forthwith.

12- The respondents have on oath denied that there was any order on the applicant for holding dual charge; He himself delayed being relieved. It is seen that the applicant has not furnished any order in support of his claim that the retention of <sup>due</sup> of the govt. quarters was consequential to his holding of dual charge ~~order~~. However, the issue stands settled with the issue of an <sup>3</sup> ~~ex post facto~~ order by Allahabad Divisional Manager on 17-12-93. By virtue of this order, the applicant's prayer to retain the quarter at Kanpur for educational purposes has been considered as per the rules at ~~double~~ the licence fee upto 3-4-90. Retention beyond this period if any is liable to damage rent as per the rule. The respondents do not seem to have settled the claim after this order dt. 17-12-93, though as per submission of the respondents ~~in~~ para 13 of CA a sum of Rs. 34,114 was recovered from the gratuity. There is no clarification on this point in the B.A.

13- The respondents have among other things ~~have~~ objected to invoking of certiorari which can be issued by Hon'ble H.C. They have tried to explain the delay in payment of pensionary benefit on the ground of pending disciplinary case. It was settled in June.

*S-12*

14- In para 13 of the C.I.A. the respondents have dealt with para 4.12 of D.A. on the question whether for 15 months from Jan 89 to April 90, the applicant was denied the benefit of house rent allowance or not. The respondents are silent on this. It is seen that the applicant did not specifically ask for any official residence in Allahabad <sup>where</sup> ~~here~~ he was posted. That is to be had on his ~~own~~ application. During this period, he held a govt. accommodation at Kanpur. Appropriate rent was leviable for the same, hence he was not separately liable to charge house rent allowance during the tenure of holding a govt. accommodation <sup>at Kanpur</sup> ~~at~~. The claim is frivolous, as he was paying rent for a govt. quarter as per rules in this period.

15- Replies to the legal queries incidentally raised by the applicant are provided in well known Rampojan's case.

16- In view of above facts and circulars the D.A. is disposed of with the direction that the recovered amount for retention and penal rent be recalculated in the light of Allahabad Divisional Manager's order dt 17-12-93 and the difference if any be paid within one month of receipt <sup>or his order</sup> For the delayed payment of pensionary benefits as mentioned in the relief clause after disciplinary order 12% interest be paid.

17- No costs.

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