

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD

Dated: Allahabad this the 6<sup>th</sup> day of November 1996

CORAM: Hon'ble Mr. D.S.Baweja, AM

O. A. NO. 1870 OF 1994

Brij Lal Bharti son of Late  
Sri Munni Lal Bharti, resident  
of Village and Post Office, Satrik,  
District Barabanki at present posted  
as Senior Traction Power Controller,  
Divisional Railway Manager's Office,

Allahabad  
(C/A Sri Virendra Singh)

-                      APPLICANT

Versus

1. The Senior Divisional Electrical  
Engineer ( T.R.D. ), Allahabad
  2. The Divisional Electrical  
Engineer (T.R.D.), Northern  
Railway, Tundla, District Agra
  3. The Divisional Railway Manager,  
Allahabad
  4. Union of India through the Secretary  
Ministry of Railway, Rail Bhawan,  
New Delhi
- (C/R Sri Prashant Mathur )

-                      OPPOSITE PARTIES

O R D E R

( By Hon'ble Mr D.S.Baweja, Member (A)

This application has been filed praying for issue  
direction to the respondents not to deduct Rs.2,684.30  
as penal rent per month from the salary and also to refund  
the amount of Rs.18,790.10 which has been already deducted  
from the salary from May 1994 to November, 1994.

2. The applicant while working as Senior Traction Power Controller at Tundla, Allahabad Division, Northern Railway was transferred vide order dated 4.10.1991 under Chief Project Administrator, Indian Railway, Central Organisation of Telecom ( IRCOT ) , New Delhi. The applicant joined IRCOT on 10.10.1991. The applicant was occupying Railway quarter at Tundla at the time of transfer. The applicant did not vacate the said quarter at Tundla and continued to occupy the same. The applicant was transferred both to Allahabad Division and joined at Allahabad on 1.11.1993. The applicant vacated the quarter on 27.5.1994. The Railway Administration has treated the occupation of quarter of Tundla as unauthorised on being transferred to IRCOT, New Delhi, and recovery of the penal rent for the same has been started. Being aggrieved by the same, this application has been filed on 15.12.1994.

3. The applicant's case is that the house rent at the normal rate was continued to be deducted from the monthly salary of the applicant after joining IRCOT , New Delhi. The applicant did not claim the packing allowance for his transfer from Tundla and also any house rent allowance. No quarter was also allotted to him at New Delhi. The applicant was entitled to retain the quarter at Tundla on being transfer to IRCOT, New Delhi, in terms of Railway Board's letter dated 22.1.1990 (ANNEXURE NO.6) according to which persons posted in IRCOT will be allotted accommodation from the Northern Railway Pool and for this purpose the employees posted in IRCOT will not be treated on deputation. This was also advised by Chief Project Administrator , IRCOT, New Delhi, to the Divisional Railway Manager, Allahabad, vide letter dated 1.10.1992. Chief Project Administrator also did not direct the applicant to vacate the quarter at Tundla and no intimation was given

to the applicant that penal rent will be recovered. No order was also passed for vacation of the quarter. The eviction proceedings against the applicant were also dropped. The applicant continued to retain the quarter of Tundla on the presumption that it was permissible to retain the quarter on transfer <sup>to IRCOT.</sup> In view of these facts, the imposing of the penal rent on the applicant is against the principle of estoppel and the recovery of the penal rent is wholly arbitrary and illegal.

4. The respondent in the counter affidavit have submitted that the applicant had applied for retention of quarter at Tundla vide his application dated 10.10.1991 but the request had not been exceeded to and the applicant was advised vide letter dated 31.8.1992/4.9.1992. Since the request for retention of quarter was not exceeded by the competent authority, the occupation of quarter was treated as unauthorised and competent authority advised the Chief Project Administrator to deduct the penal rent.. It is admitted that the matter was in correspondence with Chief Project Manager IRCOT, New Delhi <sup>but</sup> and at no stage it was indicated that retention of quarter is permissible. The Railway Board's letter referred to by the applicant is not applicable to the applicant's case as it concerns accommodation at New Delhi. The applicant is a Senior Supervisor and was fully aware of the rules. Once the retention of the quarter was not allowed and also advised to him, the plea taken by him that he was not aware that any penal rent recovery was to be made is not tenable and the principle of estoppel does not apply. Chief Project Administrator is not the pool holder of the quarters for Allahabad Division and, as such, passing any order with regard to retention of the quarter by the applicant did not arise and this matter was within the



jurisdiction of the Divisional Railway Manager, Allahabad. The recovery of the penal rent and other charges being correctly made as per the extent rules. In view of these facts, none of the grounds taken are valid and the application has no merit.

5. Vide order dated 23.9.1996 interim stay was granted for further recovery of the penal rent. However, this stay was not extended further.

6. Heard the learned counsel for the parties. I have carefully considered the material placed on record and the argument made during the hearing.

7. The applicant has placed reliance in the Railway Board's letter dated 22.1.1990 (ANNEXURE NO. A-6) according to which he was entitled to retain the quarter at Tundla on transfer to IRCOT, New Delhi. The respondents, however, have contested this stating the provisions of this letter are not applicable to the applicant's case. On going through this letter we are inclined to accept the contention of the respondents. The subject of the letter clearly refers to provision of the accommodation for Officers of IRCOT posted at Delhi. This letter does not provide that those who have <sup>been</sup> transferred to IRCOT from other stations will be allowed to retain the quarters at the stations from where they have been transferred. Further the applicant's plea that he continued to occupy the quarter at Tundla in the presumption that he was entitled to retain the quarter at normal rent is not born by the facts brought out by the respondents. The request of the applicant for retention of the quarter was turned down and the same was advised to the applicant. The matter of the applicant seems to have been taken by Chief Project Manager IRCOT and Divisional Railway Manager, Allahabad, made clear to him also that retention of the

house is treated as unauthorised and recovery -5

of the penal rent is to be done. The fact that the normal rent continued to be recovered is not significant as perhaps IRCOT did not take action on the direction of the Divisional Railway Manager, Allahabad. At no stage the applicant was advised that the decision of the Divisional Railway Manager, Allahabad, has been reviewed and he has been permitted to retain the quarters at Tundla. In this view of the matter the contention of the applicant that recovery of the penal rent is against the principle of estoppel is not tenable.

8 Q In view of the above findings, I am unable to find any merit in the application and the same is dismissed. No order as to costs.

*[Signature]*  
MEMBER (A)

RJ