

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 12TH DAY OF JANUARY, 2001

Original Application No.836 of 1995

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

Gopal Singh, Son of Late Shri Manik Singh
Sahayak Vidyut Chalak, Northern Railway
R/o House No.603-A, Loco Colony,
Allahabad.

... Applicant

(By Adv: Shri M.K.Upadhyaya)

Versus

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern
Railway, Allahabad.
3. Senior D.R.S.O (Varishta Vidyut Mandal,
Northern Railway, Adhikari (Parichalan)
Allahabad.
4. C.T.F.O (L.R) Northern Railway
Allahabad.

... Respondents

(By Adv: Shri Avnish Tripathi)

O R D E R (Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

By this application u/s 19 of A.T.Act 1985 the applicant has prayed for quashing the notices dated 22.5.1995, 27.6.1995 and 29/30.6.1995. The applicant has also prayed that the respondents may be restrained from evicting the applicant from Railway quarter No.603-A Loco Colony, Allahabad and not to interfere in possession of the applicant. It is also prayed that the respondents may be restrained from realising the penal rent and deducting it from the salary of the applicant.

The facts of the case giving rise to this application are that applicant is serving Railway as Assistant ~~Electrician~~ Electrical Driver. While serving at Allahabad the applicant

...p2

(16)

was allotted quarter No.603-A, Loco Colony Allahabad. He was transferred from Allahabad to Tundla on 20.7.1989. He remained at Tundla upto 14.3.1992 when he was transferred to Kanpur. From Kanpur the applicant was transferred to Allahabad on 25.4.1994. It is admitted case that during all ~~this~~^{the} period applicant did not vacate the possession of the quarter allotted to him and he is still occupying the same. The respondents by order dated 30.6.1995(Annexure A7) started realising Rs.1146/- per month as penal rent w.e.f. 26.7.1989. Aggrieved by which the applicant has approached this court. Learned counsel for the applicant has submitted that the respondents cannot realise penal rent and they ought to have regularised^{the} the accommodation in his favour again when he was transferred to Allahabad.

Shri^{Avn} Avnish Tripathi learned counsel for the respondents on the other hand submitted that allotment of railway quarters is made strictly on the basis of the applications and according to the Principle 'first come first serve'. On retransfer of the applicant in 1994 to Allahabad the Railway quarter could not be regularised in his favour as other applications given by other employees before his arrival were already pending. The applicant could not get advantage of his own ^{illegal conduct in} ~~ground that~~ keeping the unauthorised occupation of the quarter with him. The learned counsel has also submitted that a Full Bench of this Tribunal in case of 'Ram Poojan Vs, Union of India and Another' (1996)34 ATC 434(FB) has already examined all these various aspects of the dispute and has held that:

- " a) In respect of railway employee in occupation of a railway accommodation, in our considered opinion, no specific order cancelling the allotment of accommodation

on expiry of 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 rent/damages can be levied according to the rates prescribed from time to time in the Railway Board's circular.

In paragraph 42 the Full Bench has further observed that:

"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. We also hold that resort to proceedings under the said Act is only an alternative procedure which does not debar recovery as per the provisions of the Railway Board's circulars"

In view of the full and authoritative pronouncement by the Full Bench in my opinion the applicant is not entitled for any relief from this Tribunal. On transfer from Allahabad



(18)

his occupation of Railway quarter became unauthorised and he ought to have vacated the same. If he is retaining the possession still without allotment order, his possession is unauthorised and he is liable to pay penal rent.

The application has no merit and is dismissed. However, the applicant may approach the respondents for regularisation of the occupation. There will be no order as to costs.


VICE CHAIRMAN

Dated: 12.1.2001

Uv/