

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1439/2000

MONDAY, THIS THE 6TH DAY OF MAY, 2002

HON'BLE MR. RAFIQ UDDIN .. MEMBER (J)

Harinandan Prasad,
S/o late Kamla Prasad,
Presently working as Office Superintendent Gr.I,
North Eastern Railway,
Kashganj. ... Applicant

(By Advocate Shri S.K. Om)

Versus

1. Union of India, through
General Manager,
North Eastern Railway,
Gorakhpur.
2. Divisional Railway Manager,
North Eastern Railway,
Izzatnagar, Bareilly.
3. Divisional Personnel Officer,
North Eastern Railway,
Izzatnagar, Bareilly.
4. Divisional Mechanical Engineer, Loco,
North Eastern Railway, Izzatnagar,
Bareilly.
5. Senior Divisional Yantrik Engineer,
Diesel, North Eastern Railway,
Bareilly. ... Respondents

(By Advocate Shri K.P. Singh)

O R D E R

The order dated 31.1.1997, passed by the Divisional Personnel Officer, North Eastern Railway, Izzatnagar, Bareilly, Respondent No.3, is the subject matter of challenge in this O.A. By the said order, a sum of Rs.1,437.80 has been fixed as damage rent and the same has been directed to be recovered

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and deducted from the salary of the applicant with effect from 1.6.1995.

2. The relevant facts ^{which} are also not in dispute are that the applicant, while working as Office Superintendent Gr. II, Kashganj, was promoted and posted as Office Superintendent Gr. I, Bareilly City vide order dated 2.11.1994. The applicant was in occupation of the Railway quarter bearing No. L 5-B, Type-II, at Kashganj. Even after his promotion and transfer to Bareilly City, the applicant was permitted to retain the quarter till 18.1.1995 on normal rent. Whereas, he was also permitted to retain the said Railway quarter till 31.5.1995 on double the normal rent.

3. The case of the applicant in brief is that he was declared surplus while he was posted at Bareilly City vide order dated 20.1.1995, Annexure-3 and was posted at Izzatnagar in Diesel Shed. It appears that vide letter dated 22.3.1995, issued by the D. R. M., Mechanical Engineering, Loco Shed, Izzatnagar, a copy of which has been annexed as Annexure-10 to this O.A. ^R in ~~which~~ it was conveyed on the basis of the order of the Divisional Mechanical Engineer, Loco Shed, Izzatnagar, ~~has~~ ^R ordered that all the surplus employees were permitted to retain the Railway quarters for 2 years and it was also directed that the recovery of any penal rent from such employees should be stopped from the month of March, 1995. The name of the applicant appears

at Sl.No.62 in the list enclosed with this letter. It is contended that the impugned order is not valid and is liable to be quashed.

4. The learned counsel for the respondents has contended before me firstly that the applicant has never been declared surplus while he was posted at Kashganj. On the other hand, he was promoted as Office Superintendent and posted at Bareilly City. Therefore, the applicant cannot claim the benefit of the order dated 22.3.1995, referred to above, and consequently the impugned order has been validly issued to the applicant and he is liable to pay the damage rent for the period from 1.6.95 to 21.1.1998. However, in view of the clear language of the order dated 22.3.1995 (Annexure-10), that all the surplus employees have been permitted to retain the quarters on normal rent and the name of the applicant being at Sl.No.62 in the enclosed list, I do not find any force in the argument of the learned counsel for the respondents, particularly when the letter dated 22.3.1995, ~~has been passed~~^{name of the Applicat's mention}. The genuineness of this order dated 22.3.1995 has not been questioned on behalf of the respondents, and therefore, there is no reason to disbelieve the contents of the letter which clearly permits the surplus employees ^{to retain} ~~retaining~~ the Railway quarters occupied by them.

5. As regards the question whether the applicant has been declared surplus or not at Kashganj, the language of the letter dated 22.3.1995, does not indicate that the provision of this letter are applicable only in respect of

quarters ~~detained~~ ^{retained} at Izzatnagar and not in respect of quarters retained at Kashganj.

6. It may be stated that subsequently, the applicant has been transferred to Kashganj on 22.1.1998 and has also been allotted the same quarter from that day and ~~has~~ ^{been} regularised occupation of the same.

7. Since it is not in dispute that the applicant was permitted to retain the Railway quarter at Kashganj during the period from 22.3.95 to 21.3.1997, ^{and} he is entitled to receive H.R.A. in terms of the Railway Board circular dated 20.5.1985 for this period also.

8. For the reasons stated above, the impugned order dated 31.1.1997 is quashed and the respondents are directed to pay the H.R.A. as per rules to the applicant for the period from 22.3.1995 to 21.3.1997 within a period of three months from the date of communication of this order. There is no order as to costs. The O.A. stands disposed of accordingly.

D. A. Singh
MEMBER (J)

psp.