

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Original Application No. 345 of 2000

this the 9th day of April 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Kamlesh Kumar Singh, S/o Sri Haridwar Singh, R/o
Qr. No. T 16 B Railway Colony, Deoria, Senior Booking
Clerk, N.E. Railway, Deoria Sadar.

Applicant.

By Advocate : Sri M.K. Upadhyaya.

With

Original Application No. 346 of 2000

Ambrus Horo, S/o Brish Horo, R/o Qr. No. E 28-B,
Railway Colony, Deoria.

Applicant.

By Advocate : Sri M.K. Upadhyaya.

Versus.

1. Union of India through General Manager, N.E.R.,
Gorakhpur.
2. D.R.M. (Commercial), N.E.R., Varanasi.
3. D.R.M. (P), N.E.R., Varanasi.
4. Station Supdt. , NER, Deoria Sadar.

Respondents.

By Advocate : Sri A.K. Gaur.

O R D E R (ORAL)

These two O.As bearing nos. 345/2000 and 346/2000 are identical in nature and having a common question of law, therefore, they have been heard together and are being disposed off by a common order. For the purposes of showing the facts, O.A. no. 345/2000 is being referred to.

2. It is submitted by the applicant that he was allotted quarter no. T 16-B, Railway Colony, Deoria



Sadar by the competent authority vide order dated 15.7.96 (page 13). Thereafter, the applicant was transferred from Deoria Sadar to Aurihar Jn. vide order dated 4.8.97. During this period, respondents continued to deduct his HRA and within one year, he was again transferred back to Deoria Sadar vide order dated 15.7.98. Thereafter, vide order dated 2.2.2000 the same quarter was regularised in the name of the applicant and the Station Supdt. requested the DRM(P), N.E.R., Varanasi, not to deduct the penal rent from the applicant's salary (page 16), but yet without giving any notice to the applicant or by giving any break-up, an amount of Rs. 1520/- was deducted from the salary of the applicant in the month of January, 2000. Thus, being aggrieved, he had no other alternative but to file the present O.A. seeking a direction to the respondent no.3 not to make any further deduction from his salary and also to disclose the reasons for such illegal deduction. He has also sought a direction to the respondents to refund the amount already deducted from the applicant's salary in the month of January, 2000. The applicant was granted stay order by this Tribunal on 3.4.2000.

3. The respondents have, on the other hand, contested the O.A. by stating that on transfer of a person, he can have retained the quarter ^{only} for a period of two months and if he does not vacate the same after two months, he is liable to pay the penal rent and in the instant case since the applicant had over stayed in the house after his transfer on 4.8.97, he is liable to pay the penal rent. The counsel for the respondents has also relied on Full Bench judgment given by this Tribunal in the case of Ram poojan Vs. Union of India & Ors. reported in 1996 (34) ATC 434 wherein the Full Bench had held that after expiry of permissible period of retention

after transfer, the employee would be deemed to be ⁱⁿ un-authorized occupation and no specific order cancelling the allotment of accommodation on expiry of the permissible/permitted period of retention is necessary and penal rent can be recovered from the salary without resorting ^{to B} _^ the proceedings under public premises Act, 1971.

4. I have heard both the counsel and perused the pleadings as well.

5. Admittedly, applicant had been transferred from Deoria Sadar to Aurihar Jn. on 4.8.97 and as per rules, he could have retained the ^{only B} _^ quarter for two months after his transfer, ~~but~~ thereafter he would be un-authorized occupant, unless he is given permission by the competent authority to retain the quarter. In the instant case, no such permission was taken by the applicant to retain the quarter. However, it is seen that Station Supdt. vide his letter dated 2.2.2000 had requested the DRM(P) NER, Varanasi, not to take the penal rent from the applicant's salary as the same house has been regularised in the name of the applicant. The counsel for the respondents was not in a position to say as to what decision has been taken by the DRM(P) on this letter dated 2.2.2000 annexed at page 16 of the O.A. It is also seen that no break-up was given to the applicant before starting the recovery from the salary of the applicant in the month of January'2000, nor he was informed as to how the amount of Rs.1520/- was calculated. ^{2 for how long it will be deducted B} _^ Therefore, in my considered opinion, ends of justice would be served, if a direction is given to the respondent no.3 to consider the said letter of Station Supdt, which is annexed at page 16 of the O.A. and to pass appropriate orders thereon by giving the reasons within a period of three months from the date of communication of this order. The respondents are also directed to give break-up to the applicant as to how

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the amount of Rs.1520/- was deducted from his salary
in the month of January'2000, ^{and how much amount is liable to be recovered.} The amount already ^{RS} recovered from the applicant's salary shall be subject to adjustment as per the final order to be passed by the respondent no.3. Till such time, respondent no.3 passes a final order, interim order ^{shall} ~~to~~ continue ~~till then~~. Copy of this order be placed in O.A. no.346/2000 also.

6. With the above direction, both the O.As stand disposed off with no order as to costs.

Member (J)

Girish/-