

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.464 of 2000.

Allahabad this the 6th day of May 2003.

Hon'ble Mrs. Meera Chhibber, J.M.

Jagdish Chandra
Son of Late Badri Prasad
Resident of B-2, Shivam Complex,
Lanka Varanasi.

.....Applicant.

(By Advocate : Sri S.N. Singh)

Versus.

1. Union of India
through its Secretary,
Ministry of Railway,
New Delhi.
2. Senior Divisional Engineer (Co-ordination)
Eastern Railway Mughalsarai.
3. Senior Divisional Personnel Officer,
Eastern Railway, Mughalsarai.

.....Respondents.

(By Advocate : Sri A.K. Gaur)

O_R_D_E_R

By this O.A., applicant is seeking a direction to the respondents not to realise any amount in connection ~~of the~~ ^{with} Quarter No.1204(A) Railway Quarter, Mughalsarai which has already been vacated after the retirement of applicant and rent of same had also been deposited during the service period.

2. The brief facts as submitted by applicant are that he was allotted Quarter No.1204-A European Colony, Mughalsarai in 1997 while he was posted there. In February 1998 he was transferred from Mughalsarai to Japla. On 14.2.1998 he applied for retention of quarter as his wife was sick vide letter dated 19.02.1998

B

applicant was asked to submit medical certificates which were submitted by him. Thereafter he had to take voluntary retirement which was permitted w.e.f. 31.08.99. On 01.09.1999 he handed over the Quarter (Pg.22). He was even issued a No claim certificate on 16.11.1999 but inspite of that respondents have adjusted normal rent from 19.12.1997 to 18.02.1998 for 2 months, from 10.02.1998 to 18.08.1998 double rent for 6 months and from 19.08.98 to 31.08.99 penal rent from his gratuity, which is evident from page 11 A.

3. It is submitted by applicant that once he had requested for retaining the quarter on medical grounds and his case was not rejected and he was allowed to retire and was given No due certificate also, no amount could have been deducted from his gratuity on account of unauthorised occupation of quarter.

4. Respondents have opposed the O.A., and have submitted that after applicant submitted the medical certificates from a private doctor, he was asked vide letter dated 24.07.1998 to submit medical certificates of Specialist Doctor of Mughalsarai Railway Hospital but he failed to do so. Thereafter another letter dated 24.11.1998 was written to vacate the Quarter but it was not received by applicant. Therefore, letter dated 25.2.2000 had to be written as he had taken voluntary retirement on 31.08.1999 for deduction of normal rent, special rent and damage rent in accordance with rules.

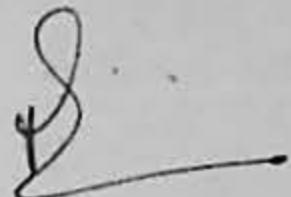
As far as no due certificate is concerned respondent's counsel submitted that if applicant had taken a no due certificate from some officer in connivance, it cannot absolve him from the penal rent as that is the statutory requirement. Since he had overstayed in house after his transfer without any permission, he is liable to pay the

amount in accordance with rules therefore no interference is called for.

5. I have heard both the counsel and perused the pleadings as well. Admittedly applicant was transferred from Mughalsarai to Japla in February 1997 and in normal course he should have vacated the house in 2 months. The rules provide that after transfer a person can retain the quarter with the permission of Competent Authority for 2 months on normal rent, for 6 months thereafter in special circumstances subject to payment of special rent i.e. double the normal rent and thereafter penal rent is to be deducted as per the plinth area.

6. In the instant case, applicant had submitted the private doctor's certificates. Even though respondents had asked the applicant to submit medical certificate from Railway Hospital, the same were not deposited, therefore, respondent could have charged damage rent from the day one but they have themselves considered the facts and deducted normal rent for 2 months special rent for 6 months and thereafter only damage rent which is in accordance with rules so applicant cannot have any grievance. In 1995(3) A.T.C. 332 Principal Bench of this Tribunal held that normal/penal rent can be recovered from D.C.R.G. No notice required-employee is supposed to know consequences of overstaying in Government accommodation. Similarly in 2001(6) SCC 596 Hon'ble Supreme Court also held that penal rent can be adjusted against the D.C.R.G. Applicant's counsel also submitted that Tribunal had granted stay on 25.08.2000 but inspite of that respondents have deducted the amount which amounts to contempt. I had specifically asked the counsel to give the date when amount was deducted because the file shows that this case was dismissed on number of times and was later restored. It was 1st time dismissed and even applicant for restoration was also

dismissed in default on 15.1.2002 but was restored only on 16.5.2002 thereafter no stay was granted in O.A. O.A. was again dismissed in default on 2.12.2002. It was then restored on 31.03.2002 subject to payment of cost which too was later recalled at the fervent appeal of counsel that applicant should not be made to suffer for the fault of counsel so in the absence of any specific averment as to when did the respondents deduct the amount, his contention is not sustainable in law. Since amount has been adjusted as per the the rules, I do not think it calls for any interference. The O.A. is accordingly dismissed with no order as to costs.



Vice-Chairman.

Manish/-