

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 7th day of June 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

O.A. No. 681 of 2002.

Tej Narain Misra s/o Sri Raghunath Misra r/o Qr.No.T-2/B, Railway
Colony, Deoria.....

..... Applicant.

Counsel for applicant : Sri R. Mishra.

Versus

1. The Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. The General Manager, North Eastern Railway, Gorakhpur.
3. The Divisional Rail Manager (Commercial), North Eastern Railway, Varanasi.
4. The Station Superintendent, Deoria Sadar Railway Station, Deoria.....

..... Respondents.

Counsel for respondents : Sri K.P. Singh.

O R D E R (ORAL)

BY MR. S. DAYAL, A.M.

This application has been filed for setting aside the order dated 1.4.02 passed by the Respondent No.3.

2. The case of the applicant is that while posted in Deoria as Booking Clerk, he was allotted Qr. No.T-2/B, Railway Colony, Deoria. He was transferred from Deoria to Siwan on 10.7.89. The applicant claims that he was relieved of his duties at Deoria Railway Station only on 22.3.90 and joined at Siwan on the same day. The applicant continued retaining Qr. No.T-2/B of Railway Colony, Deoria as no accommodation was allotted to him at Siwan. The applicant was given a notice on 13.9.91 in which it was stated that he was required to vacate the quarter on completion of two months from 24.4.90 but he has not vacated the quarter till the date of issuance of the notice. The damage rent was being deducted from his pay from 23.6.90 onwards. He was also required to vacate the quarter within 15 days. There-



after the allotment of quarter itself was cancelled w.e.f. 24.2.94. The applicant filed Application No.558/94 before a Bench of this Tribunal challenging the order dated 24.2.94 and prayed that the recovery of damage rent from his salary be set aside and amount recovered be refunded to him.

3. The O.A. ended in a direction to the respondents to the following effect :-

"For the reasons stated above, in our opinion, the applicant is entitled for the relief to the extent that this order may be quashed and respondents may be given liberty to pass a fresh order after giving opportunity of hearing to the applicant. The O.A. is allowed. The order dated 24.2.94 is quashed. The respondents may, however, pass a fresh order after giving show cause notice to the applicant. However, we make it clear that this order will not entitle the applicant to occupy the quarter if he has not yet vacated the same. If any amount has been deducted from the applicant as penal rent, it shall be subjected to the order passed by the authority in pursuance of this order. No order as to costs."

4. The respondents thereafter gave an opportunity by issuing notice on 28.1.02. On 18.3.02, the applicant replied to the said notice and thereafter the impugned order dated 1.4.02 has been passed. By the said order, the applicant has been informed that after the permissible period for retention of quarter, the recovery of damage rent will be made from the salary of the applicant as per rules.

5. I have heard the arguments of Sri R. Mishra for the applicant and Sri Vinod Kumar appearing on behalf of Sri K.P. Singh for respondents.

6. Counsel for the applicant has firstly raised the issue that since his application was allowed, the respondents could not pass the order of damage rent again. The operative portion of the order itself shows that the respondents were required to pass a fresh order after giving show cause notice to the applicant. It was made clear in the said order that it would not entitle the applicant to occupy the quarter if he has not vacated the same. It was also made clear that if amount was deducted, it would be subjected to the order passed. Therefore, nothing in

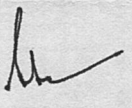
M

the order in O.A. goes against the passage^l of impugned order by the respondents.

7. Counsel for the applicant also mentioned that the applicant was not allotted two quarters ~~in order to~~^{l nor any l} made misuse of accommodation allotted to him in Deoria. His argument also does not invalidate the order passed by the respondents. The applicant was required to vacate the quarter allotted to him after his transfer on passage of the prescribed time allowed for retention of quarter in the event of transfer. There is no rule permitting the retention of accommodation till the accommodation is allotted at the next place of transfer.

8. Counsel for the applicant has placed reliance on the judgment of this Tribunal in *Awadhesh Kumar Vs. Union of India and others* (1994) UPLBEC (Trib.) 7 in which it has been held that the occupation of a quarter would be treated as unauthorised only after communication of decision of the railway authority that the allotment order in favour of the employ has been cancelled. This judgment has been over ruled by a subsequent judgment of the Full Bench in 1995 in the case of *Ram Pujan Vs. UOI* in which it has been held that for unauthorised occupation, the cancellation of allotment is not required and the passage of time for authorised occupation is the only criteria. Therefore, the ~~impugned~~ amount which requires the applicant to pay damage rent after the permissible period of retention does not suffer from any error. The O.A. is, therefore, dismissed at the stage of admission.

No order as to costs.


A.M.

Asthana/
13.6.02