

(OPEN COURT)

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**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR.A.K. GAUR , MEMBER (J).

Original Application Number. 861 OF 2002.

ALLAHABAD this the 18th day of *September, 2008.*

Jaichand Shahi, AWM/C, Mech. W/ Shop, N.E. Rly., Gorakhpur .
.....Applicant.

VE R S U S

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. The Chief Personnel Officer, N.E. Railway, Gorakhpur.
3. The S.P.O/Mech/Workshop/ N.E. Railway, Gorakhpur.
4. Senior D.M.E/C&W, North Eastern Railway, Ashok Marg, Lucknow.
5. Assitt. Account Officer/A.J./N.E Rly., Gorakhpur.
6. Principal Director/Audit, N.E. Rly., Gorakhpur.
7. Principal Supervisors Training Centre, N.E. Rly., Gorakhpur.

.....Respondents

Advocate for the applicant: Sri R.N. Sinha

Advocate for the Respondents : Sri A.K. Sinha

ORDER

The applicant through this O.A has sought the following main relief(s): -

"(a). to issue an order or direction directing the respondents to quash the order of waive the alleged amount of Rs. 20,231.04 as damage rent as mentioned in Annexure No. A-1 to this petitioner issued by the respondent No. 7.

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(b). to issue an order or direction directing the respondents to drop the Audit Inspection para Part/1 April 98 S. No. 01 Dt. 18.03.2002 in reference to Demi Official letter No. AJ/98/255/86/487.

(c). to issue an order or direction directing the respondents not to treat the period of occupation of Qr. From 1.1.98 to 28.10.98 as unauthorized by the applicant as it was on account of the administrative lapses and not on account of the applicant. If recovered forcibly it should be refunded with interest to the applicant.”.

2. The applicant , who was posted as Lecturer in System Technical School, was allotted Railway Quarter Type III No. 686/A in Medical Colony, Gorakhpur. Later on he was selected as AME/C&W and joined on the said post on 01.05.1997 at Samastipur. After joining the applicant submitted an application to Sr. D.M.E/C&W, Lucknow for retention of Railway quarter at Gorakhpur for 2 months from 01.05.1997 to 30.06.1997 on normal rent. Said prayer of the applicant was acceded to vide letter dated 04.06.1997. By another application dated 29.06.1997, the applicant requested for retention of quarter for a further period of six months on account of sickness of his wife from 01.07.1997 to 31.12.1997. This request of the applicant was also accepted but on payment of double of normal rent by the Sr. D.M.E/ C&W, Lucknow vide letter dated 14.07.1997. In the meantime, a circular was issued by the Railway Board No. E©96-CRI-39 New Delhi dated 06.1.1997 addressed to the General Manager of Zonal Railways and Production Units regarding, “retention of Railway accommodation at the previous place of posting

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upto 31.12.1998 on normal rent". Another application dated 28.12.1997 was submitted by the applicant for retention of Railway quarter upto 31.12.1998 on the ground of mid session and education of two daughters at Gorakhpur. The applicant also pleaded that Sri M.H. Akbar, ex-MIO/BSB newly promoted AME/Power/SPJ was allowed to keep his quarter at Varanasi on normal rent as per direction contained in the Railway Board Circular. The applicant submitted an application on 02.07.1998 addressed to Sr. D.M.E/C&W/Lucknow to consider his case sympathetically but the same was not considered and the quarter in question was allotted to one Sri Sanjay Tewari on 28.07.1998. Application was also given to C.M.E/N.E.Rly. Gorakhpur on 03.04.2000 regarding unlawful recovery, but no heed was paid by the respondents. Further grievance of the applicant is that the respondents started recovery of Rs. 2231.00/- per month from the pay of the applicant from May, 2002 and June 2002 without deciding earlier representations of the applicant.

3. Denying the pleas taken by the applicant, the respondents have filed Counter Reply and Supplementary Counter Reply. The respondents, in their Counter Reply have vehemently urged that the said memorandum of retention of quarter issued vide DRM/BSB's letter No. Ya/575/ 1/ 17/Pt.I dated 8.7.1998, was not in accordance with the extant rules permitting Sri M.H. Akbar to retain his quarter No. L/ 181(type-IV) from 24.12.1997 to 24.12.1998 at normal rent because he was posted in Samastipur Division and not at the Headquarter office of E.C. Railway, Hajipur. The contents of rules issued by Railway Board vide their letter No. E(C)96CRI-39 dated 6.1.1997 are applicable to those only, posted at Zonal Railways Headquarter of New Zones i.e. Hajipur. The General

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Manager , Gorakhpur's office Memorandum No. Pra/575/3/3 Pt.V dated 05/06.06.2000 supercedes earlier memorandum No. Ya/575/1/17 Pt.I dated 08.07.1998 issued by DRM (M)/BSB. As per the General Manager's Memorandum Sri M.H. Akbar was allowed to retain his quarter at Varanasi from 25.02.1998 to 24.08.1998 at the rate of special license fee on the ground of sickness of his son and from 25.08.1998 to 04.08.1999 at the rate of damage rent. The damage rent for period from 25.08.1998 to 04.08.1999 has been recovered from the pay of Sri M.H. Khan as mentioned in G.M. (P), Gorakhpur Letter No. E/573/6/7/VIII/Audit dated 08.01.2003.

4. In their Supplementary Counter Reply, the respondents have categorically mentioned that after consideration on the representation dated 28.12.1997 and reminder dated 10.01.1998 by the respondents, the applicant was informed vide letter dated 11.06.1998 that he did not fulfill the conditions in the matter of retention of the Railway quarter as laid down in the Railway Board's letter dated 06.01.1997 and, therefore, it was not possible to allow him to retain the quarter. It has also been mentioned in the Suppl. Counter Reply that house in question retained by the applicant, after 01.01.1998 shall be deemed to be unauthorized and illegal, and damage rent will be recovered from the applicant.

5. Having heard learned counsel for the parties, I am satisfied that the damage rent has rightly been recovered from the applicant w.e.f. 01.01.1998. The applicant was clearly given to understand that he did not fulfill the conditions in the matter of retention of Railway quarter. Perusal of Annexure SCR-I and 2 clearly indicate that the benefit of letter dated 06.01.1997 is applicable to only those employees/officers who

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were transferred to Headquarter of new zones. In the present case, the applicant was transferred to Samastipur on promotion.

6. In view of the discussions made above, I am of the opinion that the applicant has failed to make out any case for interference of this Tribunal. The O.A is, therefore, dismissed as having without merit.

7. There will be no order as to costs.

Anand
MEMBER- J.

/Anand/