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Open Court
CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD

(THIS THE 25th DAY OF March 2011)

HON'BLE DR. K.B.S. RAJAN, MEMBER (J)

Original Application No.892 of 2006

(U/S 19, Administrative Tribunal Act, 1985)

Prem Kumar Sukla aged about 50 years son of Shee Surya Dev Sukla working as head Parcel Clerk North Central Railway on Railway Station Fateh Pur.

And permanent residents of village Karrammar Post Office Karrammar district Balia.

..... Applicant

Present for Applicant : Shri Awadesh Rai

Versus

1. Union of India through its General Manager, North Central Railway at Allahabad.
2. Divisional Rail Manager, North Central Railway, Allahabad.
3. Senior Divisional Commercial Manager, North Central Railway, Allahabad.
4. Station Superintendent Fatehpur, North Central Railway, Fatehpur.

..... Respondents

Present for Applicant : Shri S. K. Rai

ORDER

(Delivered by Hon. Dr. K.B.S. Rajan, Member-J)

None for the applicant. The facts of the case are as under:-

2. The applicant while working as Head Parcel Clerk at Fatehpur was transferred to Tundla on Administrative ground vide order dated 27.02.2002. He was allotted an

accommodation in the previous place of duty which, the applicant was to vacate in the event of his transfer. The applicant did not join the transferred place and subsequently by order dated 05.12.2002 he was sifted to Mirzapur. The applicant could not get the accommodation at Fatehpur and on 26.02.2004 the accommodation was vacated; consequently the authorities have, invoking the provisions relating to retention of accommodation slap the applicant with penal rent to the tune of ₹11,1756.27 by calculating the damage rent from 05.03.2002 to 26.02.2004. Applicant moved O.A. No. 750 of 2004 challenging the said order of recovery. The Tribunal, vide order dated 21.09.2004 allowed the said O.A. as under:-

"7. Under the facts and circumstances and in view of the discussion made above, the O.A. is allowed to the extent that the impugned orders dated 16.01.2004 (annexure-1) and 28.02.2004 (annexure-2) are quashed and set aside. However, a liberty is given to the respondents to pass fresh orders as per rules keeping in view the observation made above. The interim order passed on 28.07.2004 also stands merged with this order. No order as to costs."

3. The respondents, in pursuance of the above order, issued fresh communication to the applicant working out the rent charges which goes to the extent of ₹75304.00/- and the applicant challenged the same through this O.A.

4. The respondents have contested the O.A. and they have justified the levy of penal rent as the applicant is treated an unauthorized occupant of allotted accommodation, after the expiry of the grace period available under rules. No Rejoinder Affidavit has been filed though sufficient time was available.

5. When the case was called none present from both the side invoking the rule 15 of C.A.T. Procedure Rules 1987 this case has been considered on merits.

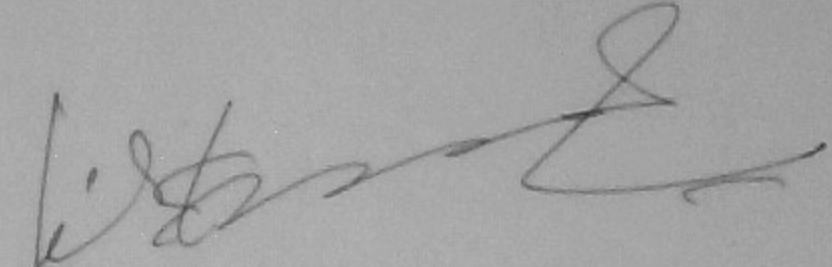
6. The applicant was transferred in the Month of December, 2002 from Fatehpur to Mirzapur. Normally the time limit available for retention of accommodation is two months with normal rent and the provisions also exists for retention of accommodation for a further period with the payment of certain prescribed amount for certain specified purpose (eg. Children education/medical ground etc.,). The applicant does not seem to have obtained prior permission but chose to retain the accommodation. However, it is not exactly known whether applicant would have been provided with new Railway accommodation at Mirzapur. Retention at Fatehpur of accommodation would not have been objected to by respondents if there has been no waiting list for the allotment of accommodation. It however, does not absolve that the applicant from making necessary application for

retention of accommodation. The purpose of penal rent is to ensure that accommodation at the previous duty is vacated and made available to the department so that some other in the waiting list would be provided the said accommodation in the previous duty. Where such waiting list does not exist, then, as a matter of welfare measure, it would have been appropriate for the respondents to allow the applicant to retain the accommodation especially when he has not sought any accommodation at Mirzapur and he has not been claiming House rent allowance.

7. It is, therefore, a case wherein the General Manager can consider the case keeping in view the rule position and soften the penal rent within his discretionary power.

8. In view of the above the O.A. is disposed of with direction to the General Manager, North Central Railway at Allahabad, to consider the case of the applicant and ratify the retention of the Railway Accommodation at Fatehpur beyond the normal period of retention after transfer and should there be any need to levy penal interest, the General Manager may consider softening of penal interest if such a discretionary power exists and the amount payable be communicated, which applicant shall pay. Time limit for a decision to be

arrived at is three months from the date of communication of
this order. No costs.



[Dr. K. B. S. Rajan]
Member-]

/Dev/