

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 309/1996

Date of order : 22/3/2002

Present : Hon'ble Mrs. Meera Chibber, Judicial Member

NIRMALA BOSE

VS.

1. UNION OF INDIA REPRESENTED THROUGH
THE GENERAL MANAGER, S.E. RAILWAY,
GARDEN REACH, CALCUTTA - 700 043.
2. CHIEF MEDICAL DIRECTOR, S.E. RAILWAY,
GARDEN REACH, CALCUTTA - 43.
3. THE CHIEF VIGILANCE OFFICER(T),
S.E. RAILWAY, GARDEN REACH,
CALCUTTA - 43.
4. DIVISIONAL RAILWAY MANAGER, S.E.
RAILWAY, KHARAGPUR, DIST. MIDNAPORE
5. CHIEF MEDICAL SUPERINTENDENT, S.E.
RAILWAY, KHARAGPUR, DIST. MIDNAPORE,
6. SENIOR DIVISIONAL PERSONNEL OFFICER,
S.E. RAILWAY, KHARAGPUR,
DIST. MIDNAPORE.

For the applicant : Mr. G.K. Das, counsel

For the respondents : Mr. T.P. Biswas, counsel

O R D E R

In this case the applicant has challenged the order dated 16.2.1996 whereby the applicant was informed by the Divisional Personnel Officer through the Matron Incharge that she was in occupation of the quarter No. 528/F unit 2 which was mutually

the said order that :-

"although you took House Building Loan from the Railway Administration and you built your own house at Jhafatpur within the Kharagpur municipality area, the building construction of your own house completed on 1.12.94.

After completion of your own house you shall have vacated the Rly Quarter which was in your possession But instead of vacating the said quarter you have retained the said Rly. Quarter without taking any permission from the competent authority.

Hence, the said Rly. Quarter is treated as unauthorised occupation by you and for that Damage Rent @ Rs.1449/- per month alongwith the arrears from 1.12.94 onwards is stand, recoverable from your salary.

Therefore, it has been decided that in addition to the damage rent Rs.1449/- amounts of Rs.20286/- is being recoverred in 21 instalments commencing from Feb' 96 onwards.

This is for your information."

The grievance of the applicant is that after she had constructed the house she had requested for a house near the hospital as her duty is round the clock which was granted and thereafter she had vacated the quarter also, but nobody came to take of the house the possession as Sri Chatterjee in whose favour it was allotted could not take over due to a vigilance case due to which his allotment was kept in abeyance. Apart from it, she states that no notice under Section 7 of Public Premises(Eviction of was Unauthorised Occupants) Act/issued to her for getting the house vacated and since the provisions of Public Premises (Eviction of Unauthorised Occupants) Act have not been followed, the impugned order is bad in law. Even otherwise, she has stated that she is in the grade of 2000-3200/-, but the effect of impugned letter would be that recovery would be somewhere

around Rs. 2400/- which would be deducted from her salary every month as she has to repay the instalment of House Building Loan as well. Therefore, she has stated that it would be contrary to the rules of Justice to recover such a huge amount from the applicant's salary.

2. The respondents in their reply have stated that ~~h~~ claim is relied by her own letters. Moreover, she herself gave statement before CVO/GRC on 31.1.95 that her relations are residing with her. She took no prior permission from Administration. This tantamounts to subletting which she can not do. It is stated that Smt. N. Bose did not apply after 1.12.94 reporting the completion of house building expressing her willingness to vacate the qrs. which was her equitable obligation after completion of construction of house. When she was asked explanation, ~~she~~ sought for time for two months more on 11.9.95 obviously she herself gave the scope to Vigilance Department to comment on this matter and imposed bar on vacation which was conveyed by the Sr.DEN(Hd. Qrs.) Kharagpur. As soon as the clearance was received from C.V.O./Garden Reach vide his letter No. GM/V/Cr.6.56/9.4/S&T dated 19.12.95, Smt. N. Bose was permitted to vacate the quarter which she vacated on 14.2.95. Besides, she asked two months time on 11.9.95 to vacate the quarters. Moreover, subletting her quarter after completion of house building is not proper. Hence she herself is responsible for

a result, she is liable for payment of damage rent of Rs. 20,986/- as assessed by the Sr. DPO/Kharagpur.

3. We have seen the pleadings and find that the short point is whether the respondents could have recovered the damages from the applicant's salary without complying with the provisions of Public Premises(Eviction of Unauthorised Occupants) Act. The applicant's counsel has relied on a judgment reported in 1994, Vol. 27 ATC 366 wherein it has been held that penal rent cannot be deducted from salary as damages can be recovered only by adopting appropriate legal proceedings under the Public Premises(Eviction of Unauthorised Occupants) Act. Since the Calcutta Bench of C.A.T. has already taken the view that penal rent/damage rent cannot be deducted from the salary of the employee without taking recourse to Public Premises (Eviction of Unauthorised Occupants) Act, as a coordinate Bench, I am bound by the same.

4. In view of the above, the impugned order at Annexure A-10 dated 16.2.1996 is quashed and set aside. However, the respondents shall be at liberty to recover the amount after following due process of law and extant rules.

5. With the above direction, the O.A. is allowed with no order as to costs.



MEMBER(J)