

Central Administrative Tribunal
Jodhpur Bench, Jodhpur

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Date of order : 15.2.2001

O.A.NO. 36/99

Dayaldas Jani S/o Shri Jethanad, aged about 66 years,
R/o 8/183, Chopasni Housing Board, Jodhpur, last employed
on the post of Signal Inspector at Degana Junction,
Distt. Nagaur, Northern Railway.

..... Applicant.

Versus

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,
Jodhpur Division, Jodhpur.
3. Divisional Personnel Officer, Northern Railway,
Jodhpur Division, Jodhpur.
4. Divisional Signal and Telecom. Engineer,
Northern Railway, Jodhpur Division, Jodhpur.

..... Respondents.

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CORAM :

HON'BLE MR .A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR .A.P.NAGRATH, ADMINISTRATIVE MEMBER

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Mr. J.K.Kaushik, Counsel for the applicant.

Mr. Kamal Dave, Counsel for the respondents.

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ORDER

PER HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER :

The applicant had filed this original application with the prayer that the impugned order dated 31st August, 1994, Annex.A/1, ordering recovering of damage rent from the settlement dues of the applicant, be declared illegal and be quashed and the respondents be directed to make the payment of the dues so with-held along with interest at the market rate.

2. Notice of the O.A. was given to the respondents who have filed their reply to which a rejoinder was also filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. In order to appreciate the controversy in hand it would be fruitful to give in brief few relevant facts. The applicant while he was working at Raika-bagh Palace Station, was allotted a Government quarter in the year 1983-84. Thereafter, he was transferred to Railway Station Degana ^{under} CSI, Merta Road, where he joined his duties on 29.3.98. But, due to domestic circumstances, he did not vacate the quarter which was allotted to him at Raika-bagh Palace Station and continued to remain in occupation of the said quarter from 30.3.88 to 30.9.90. It is for this period, the Railways has imposed damage rent on the applicant and

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~~on the applicant and~~ after working out the amount due recovery was made from the applicant and the out-standing amount was with-held while paying the retiral benefits to the applicant. The applicant superannuated on 31st July, 1990.

5. The applicant has challenged the action of the respondents that the applicant was made to pay penal rent for the said period at the rate of 10% of his pay and, therefore, no damage rent could be levied on the applicant and recovered from him either from his salary or from his retiral dues. On the other hand, the respondents have supported their action as legal and as per law.

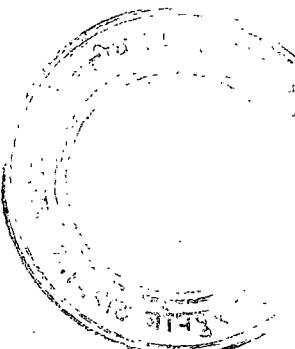
6. So far as the total amount, sought to be recovered from the applicant is concerned, the correctness thereof is not in question. It may be mentioned here that a sum of Rs. 4,985/- has been recovered out of 14,502/- found payable by the applicant and rupees 9,517/- are said to be still outstanding and were recovered from the applicant's retiral dues.

7. In our opinion, as per the rules, the applicant was only entitled to retain the quarter on normal rent for two months and thereafter for another two months on the same normal rent. For the period beyond the permissible authorised period of retention, the applicant is required to pay rent as per rules and the damage rent as per the circulars issued by the Railway Board from time to time. The amount of Rs.14,502,



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has been worked-out by the respondents as per rules and circulars in vogue in this regard. The recovery of damage rent, therefore, in these circumstances cannot be held to be bad in law simply because in the past, the applicant was made to pay 10% of his pay as penal rent. In fact for six months after the permissible first four months rent of a quarter was required to be recovered at 10%. It appears that even for subsequent period for which damage rent was required to be recovered the applicant was charged 10% as rent for the quarter. But this sort of administrative omission does not give any right to the applicant to claim that the department cannot levy damage rent on him once 10% penal rent is charged. As noted above, the calculation of the outstanding amount is not in dispute, therefore, when the contention of the applicant regarding non recovery of damage rent on account of levying 10% of the pay as rent, has been rejected, the applicant cannot claim the refund of the detained amount in this regard. It may also be noted that earlier the applicant has been only praying for waiving of the recovery. At no point of time, he had challenged the correctness of the amount or challenged the action of the respondents as illegal and against the rules. The order relating to the damage rent was passed way back in the year 1994 and the applicant is challenging the action in the year 1999 therefore, the challenge of the applicant in this regard is also highly belated and deserves no consideration. The applicant was not vigilant in respect of his rights and had himself delayed the matter abnormally. In view

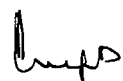


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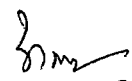
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of this taking advantage of an order dated 24.2.95
by the Tribunal in another matter
passed in review, he cannot agitate the point of
imposition of damage rent on him.

8. In view of the above discussions, we are of
the opinion that the Original Application of the
applicant is hopelessly time barred and devoid of
merit and deserves to be dismissed. The Original
Application is, therefore, dismissed. The parties are
left to bear their own cost.

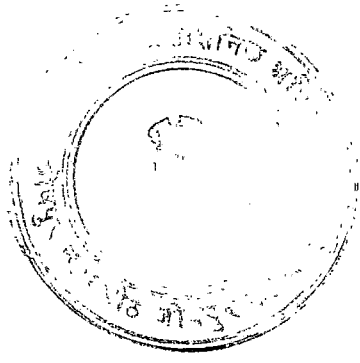


(A.P.NAGRATH)
Adm.Member



15/2/2001.

(A.K.MISRA)
Judl. Member



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Part II and IM destroyed
in my presence on 2/23/07
under the supervision of
section officer [signature] as per
order dated 2/13/07

Section officer (Record)