

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.15/99

Tuesday, this the 16th day of January, 2001.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Y.Kunjukoshy,  
Retired Shunter,  
Southern Railway, Quilon,  
Residing at: 'Jayashree Bhavan'  
Bharanikkavu, Kollam-16. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by  
the General Manager,  
Southern Railway,  
Headquarters Office,  
Park Town.P.O.  
Madras-3.
2. The Divisional Railway Manager,  
Southern Railway,  
Trivandrum Division,  
Trivandrum-14.
3. The Senior Divisional Personnel Officer,  
Southern Railway,  
Trivandrum Division,  
Trivandrum-14.
4. The Secretary,  
Housing Committee and  
Assistant Personnel Officer/  
Southern Railway(Mechanical),  
Trivandrum Division,  
Trivandrum-14. - Respondents

By Advocate Mr K Karthikeya Panicker

The application having been heard on 16.1.2001, the Tribunal  
on the same day delivered the following:

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O R D E R


HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant, a Steam surplus staff, was in occupation of Quarter No.61-E, Type I at Quilon. By an order dated 6.7.87, the applicant along with other Steam surplus staff was posted to Trivandrum for being utilised for changing speedometer charts on locos. Ultimately, after diesel conversion training, the applicant was initially posted to Ernakulam Marshelling Yard in September, 1991 and on his request, transferred back to Quilon with effect from 15.2.92. Eversince his posting to Trivandrum for being utilised for changing speedometer charts, the applicant continued to occupy the said Quarter at Quilon. While the applicant was posted at Ernakulam as Diesel Assistant, deductions were made from his salary towards damage rent an amount of Rs.800/- per month. Even after joining at Quilon, the respondents went on making deductions on damage rent from his pay and allowances. The applicant aggrieved by that, made a representation. By order dated 31.1.94(A-1), the Quarter No.61-E, Type I was re-allotted to the applicant with effect from 15.2.92. The request of the applicant for refunding the damage rent recovered from him not being acceded to, the applicant filed O.A.1275/97 seeking for a direction to the respondents to dispose of the representation for claiming refund of the amount recovered from his pay and allowances. That O.A. was disposed of directing the respondents to consider and dispose of the representation. In purported obedience of the above direction, the impugned order dated 10.12.97 has been issued. The Divisional Railway Manager finding that as the applicant

has been transferred back to Quilon with effect from 15.2.92 and continued there, and the quarter has been re-allotted to him held that the recovery of damage rent beyond 15.2.92 was not in order. The DPO who communicated the decision of the DRM to the applicant stated that the amount recovered for the period from 15.2.92 to 31.1.94 i.e. Rs.6766/- would be adjusted towards the amount due from the applicant for the unauthorised occupation from 1.4.89 to 14.2.92. It is aggrieved by that the applicant has filed this application seeking to have the impugned order set aside and for a direction to the respondents to recalculate the excess recovery of damage rate of rent made from the applicant's salary during 15.2.92 to 31.1.94 and to refund the same to the applicant forthwith, with 18% interest.

2. The respondents resist the claim of the applicant on the ground that since the applicant was not entitled to retain the quarters at Quilon beyond the permissible limit of two months on his transfer to Trivandrum, the recovery of damage rent for the unauthorised occupation was perfectly in order as per rules and therefore, the adjustment made cannot be faulted.

3. On a careful scrutiny of the pleadings and material placed on record, we find little justification in respondents taking the view that the occupation of quarter by the applicant beyond a period of two months from the date of alleged transfer to Trivandrum is unauthorised. In this




context, it is necessary to examine whether the posting of the applicant to Trivandrum by R-3(b) order is really a transfer or only a deployment pending appointment as Diesel Assistant, being a steam surplus staff. The relevant portion of R3(b) which reads as follows:

"The undermentioned steam surplus Loco Running staff are posted to the stations noted against each temporarily for changing speedometer charts on locus with immediate effect. They may be relieved immediately and on joining at the new stations they may be utilised for changing speedometer chart in locos.."

(Emphasis supplied)

It is evident from what is quoted above that the applicant was only posted and not transferred. Even the posting was treated as a temporary measure. When the applicant would be posted back to Quilon or any other place had not been indicated. Under these circumstances the continued occupation of the applicant the quarters during his posting under R-3 (b) order cannot be validly treated as unauthorised because he had not been transferred but only temporarily posted to Trivandrum for specific duty. It is pertinent to note that the applicant had never been told that his occupation of the quarter after R3(b) order was unauthorised. Under these circumstances, the respondents were not entitled to recover any amount from the applicant as damage rent for the period during which he was posted at Trivandrum, pending appointment as Diesel Assistant.



4. In the result, in the light of what is stated above, the application is allowed. The impugned order is set aside and the respondents are directed to refund to the applicant the amount of Rs.6766/- with 12% interest per annum from 10.12.1997 till the date of payment. This shall be done within two months from the date of receipt of a copy of this order. No costs.

Dated the 16th January 2001.



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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Annexures referred to in the Order:

A.1: True copy of the Memorandum No.V/P.555/G1 dated 31.1.94 issued by the 4th respondent regarding re-allotment of quarters.

R-3(b): True copy of the office order No.106/87/Mechl dated 18.8.1987 regarding Fitment of Speedometer charts - deployment of Steam surplus staff issued by the Divisional Personnel Officer, Divisional Office, Personal Branch, Southern Railway, Trivandrum.