

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.150/98

Wednesday, this the 13th day of December, 2000.

CORAM:

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

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

K.Doraisamy,
Carriage and Wagon Fitter Grade-I,
Southern Railway,
Mettupalayam. - Applicant

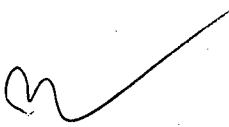
By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by
the Secretary to Government of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Madras-3.
3. The Divisional Railway Manager,
Southern Railway,
Palghat Division,
Palghat.
4. The Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat.
5. The Additional Divisional Railway Manager,
Southern Railway,
Palghat Division,
Palghat. - Respondents

By Advocate Mr Mathews J Nedumpara


The application having been heard on 13.12.2000, the Tribunal
on the same day delivered the following:



O R D E R

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

The applicant, a Carriage and Wagon Fitter Grade-I is aggrieved by the action of the respondents in recovering damage rent from him at the rate of Rs.2391/- P.M. w.e.f. 25.4.95 and Rs.3061/- P.M. with effect from 1.6.95 on the ground that he continued in occupation of a Type IV quarters allotted to him while he was working at Podannur beyond the permissible period after his transfer to Mettupalayam without being authorised. It is alleged in the application that a Type IV quarters was allotted to him as there was no eligible person who was willing to occupy the quarters, that his retention of the quarters even after his transfer was on the basis of the request made by him for retention and that till the A-1 notice was issued to him, the normal rate of rent was recovered from his pay and he was not paid HRA. He has alleged in the application that he was under the belief that his request for retention of the quarters was accepted and the occupation of the quarters was not unauthorised. It is further alleged that in response to A-1 notice the applicant submitted A-2 representation and that without considering the same the respondents started the recovery. The recovery is being effected on the basis of the Railway Board's letter A-3. The applicant has therefore filed this application to set aside A-3 and for a declaration that deduction of damage rent from his pay is illegal.




2. The respondents have filed a reply contesting the application.

3. When the application came up for final hearing today, learned counsel of the applicant states that the applicant is not pressing the challenge against A-3 and that the applicant would be satisfied, if he is given an opportunity to make a representation to the 2nd respondent stating the circumstances under which he was in possession of the quarters and invoking the powers of General Manager for waiving or reducing the damage rent and the 2nd respondent is directed to dispose of the representation taking into account the special circumstances of the case.

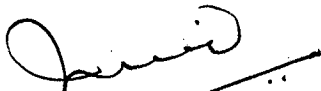
4. Learned counsel of the respondents agreed that the application may be disposed of in that manner.

5. In the result, in view of the submission made by the learned counsel on either side, the application is disposed of permitting the applicant to make a detailed representation to the 2nd respondent regarding the grievances projected in this application and directing the 2nd respondent that, if such a representation is received within a period of one month from today, the same shall be considered sympathetically, taking into account the circumstances under which the applicant was put in possession of the quarters and the applicant continued



to occupy the same and also the fact that the applicant is a low paid employee, and pass appropriate orders within a period of three months thereafter. We also direct that till a decision is taken on his representation and communicated by the 2nd respondent, the recovery on the basis of the impugned order shall not be made. No costs.

Dated, the 13th of December, 2000.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

rv

List of Annexures referred to in the order:

- Annexure A1: A true copy of the notice No. RJ/P.554/P/Vol.II dated 30.10.96 issued by the fourth respondent.
- Annexure A2: A true copy of the reply dated 6.11.96 submitted by the applicant to the fourth respondent.
- Annexure A3: A true copy of the letter No. F(X)I/86/11/6 dated 1.4.89 issued by the Railway Board.