

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 175/2010

Tuesday, this the 4-th day of October, 2011.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

Chandran R Chandrasekharan,
Section Engineer/Signals,
Southern Railway, Palghat Division
(Under orders of transfer to Trivandrum Division,
Presently working at Signal & Telecommunication
Workshop, Podanur on work arrangement basis)
Permanent address: Ram Kamal Avenue No.6/56-D,
Mudliyar Street, Shornur.Applicant

(By Advocate Mr TC Govindaswamy)

v.

1. Union of India represented by
the General Manager,
Southern Railway,
Headquarters Office, Park Town.P.O.
Chennai-3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

This application having been finally heard on 29.9.2011, the Tribunal on 4.10.2011
delivered the following:

ORDER

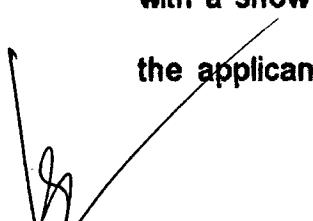
HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

The question is as to whether the applicant is liable to pay penal rent for
the period of his stay at the allotted accommodation beyond the permissible
period, on his transfer from 01-04-2007 to 10-09-2007.

[Signature]

2. **Brief facts of the case:** When the applicant was posted to Shoranur as a Junior Engineer, he was allotted the earmarked quarter No. SRR/19-A at Shornur. When a part of Shornur and another part of Calicut Section were carved out and a new Headquarters was formed at Tirur and the applicant was posted there sometimes in 2006, no allotment of accommodation was made at Tirur and as the shifting of the applicant was during the middle of the academic session of his wards, he had made a request for retention of the allotted accommodation at Shornur till 30-04-2007 or till he was allotted an accommodation at Tirur. While it is the case of the respondents that by communication dated 13-11-2006, permission was granted upto 31-03-2007 for retention of the accommodation at Shornur, vide Annexure R-1, the applicant did not admit the said position. According to the applicant, though he had made a request as stated above, vide Annexure A-1, there was no reply to the same. Respondents continued to recover the normal rent from the applicant and later on by 10-09-2007 the applicant did vacate the accommodation of his own. Under these circumstance, he was issued with a show cause notice sometimes in 2010 to show cause as to why penal rent to the tune of Rs 40,735/- for the unauthorised period of occupation of the accommodation from 01-04-2007 to 10-09-2007 be not recovered as penal rent. The applicant has challenged the same before this Tribunal.

3. **Respondents have contested the O.A.** According to them, once the applicant had been transferred to another station he is expected to vacate the accommodation at the old duty station after the expiry of the normal period of retention of two months. This not having been done, the applicant was issued with a show cause notice. Indeed, Annexure R-1 is a communication permitting the applicant to occupy the accommodation upto 31-03-1007. As he had not



vacated and as his stay in the accommodation cannot be treated as authorised occupation, he is liable to pay pent at the penal rate.

4. Counsel for the applicant argued on the above lines and referred to a decision by the Kerala High Court wherein the penal rent had been reduced to Rs 600/-. He has also stated that the post held by the applicant at Tirur also made entitled him to have an accommodation at the place of residence but the applicant had not been so granted.

5. Counsel for the respondents submitted that in cases of vacation of allotted accommodation, the rules are specific and within the permitted time the house held by the applicant ought to have been vacated.

6. Arguments were heard and documents perused. That the initial allotment of accommodation was duly made by the respondents and this fact is not denied by them. That he had applied for retention has also not been denied since it was by Annexure R-1 that the respondents permitted the applicant to hold on with the said accommodation till 31-03-2007. Though the applicant claimed that he had not received any reply to his request for retention till 30-04-2007 or till such time he could be allotted accommodation at Tirur, his reply to show cause notice vide Annexure A-3 does not indicate anything of that sort. In fact, he had referred to the date of 01-04-2007 seeking permission for retention beyond 31-03-2007. Thus, there is certainly an omission on the part of the applicant in applying for further retention. The post of Junior Engineer even at Tirur would have entitled the applicant to have a specific accommodation as he might have to be contacted at short interval through telephone or by personal messenger etc., If the allotment had not been made, the applicant was expected to apply for the same and in the absence of any allotment, he could have authorizedly continued

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to hold on with the earlier accommodation. On 10-09-2007 he vacated the said accommodation due to his having been promoted and posted to Palghat. Thus, notwithstanding the fact that the respondents did not allot any accommodation at Tirur on or after 31-03-2007, there is certainly an element of negligence on the part of the applicant in this regard. He had taken things for granted and retained the accommodation and vacated the same at his will on his promotion and posting at Palghat.

7. One aspect has to be seen at this juncture. According to the applicant's counsel there was no demand for any accommodation at Shornur during the material time. The applicant would have, in the event of vacating the accommodation would have become entitled to house rent allowance, which he did not claim due to the fact that he was holding the Railway accommodation. Under the circumstances, if the department had extended the time for retention, he would have been made to pay only the normal rent, which the respondents did charge. The extent of penal rent being too exorbitant, had the applicant known in advance, he would have taken timely action either to get the extension for further retention or would have vacated. Since there has been some omission on the part of the respondents also, the applicant cannot be mulcted with penal rent to the extent as demanded by the respondents. At the same time the applicant's claim of no liability for the period of retention beyond the permitted period, of accommodation cannot be accepted. The decision by the High Court relied upon by the Counsel for the applicant comes to our rescue here. A reasonable rate of rent would meet the ends of justice. Normally, when accommodation is retained beyond the normal period of retention of two months, for the next two months, twice the standard rent is charged and for the next four months, four times the standard rent is charged. In the instant case, after 31-03-2007, the applicant had retained the accommodation for a total of 5 months

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and ten days. Thus, the applicant has to pay the rent as under:-

- (a) Twice the standard rent for April and May 2001.
- (b) Four times the standard rent for June, July, August and upto 10-09-2007.

8. Needless to mention that the applicant would not be entitled to any House Rent Allowance for the aforesaid period. Respondents shall accordingly work out the amount due and deduct from the same the extent of rent already recovered and balance could be recovered from the pay of the applicant from his pay.

9. The application is disposed of on the above terms. No cost.


K NOORJEHAN
ADMINISTRATIVE MEMBER


Dr K.B.S.RAJAN
JUDICIAL MEMBER

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