

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 407 of 2002

Wednesday, this the 28th day of July, 2004

CORAM

**HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER**

1. D. Vijayan,
S/o Divakaran,
Technician Grade-I, Microwave,
Southern Railway, Ernakulam Junction,
Residing at: Railway Quarters No.108-D,
Ernakulam Junction, Ernakulam.Applicant

[By Advocate Shri T.C. Govindaswamy]

Versus

1. Union of India, represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town PO,
Madras - 3
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Madras - 3
3. The Deputy Chief Signal &
Telecommunication Engineering,
Microwave, Southern Railway,
Perambur, Chennai - 23
4. Senior Personnel Officer,
Office of the Deputy Chief Signal &
Telecommunication Engineering,
Microwave, Perambur, NJO Complex,
Chennai - 23Respondents

[By Advocate Mr. P. Haridas]


The application having been heard on 28-7-2004, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, Technician Grade-I, while working at Microwave Office of Southern Railway, Ernakulam, was allotted Railway Quarter No.108-D at Ernakulam Junction. He was transferred to Peerumedu on 12-6-1998. The applicant joined at Peerumedu on 26-6-1998 but did not vacate the railway Quarter No.108-D at Ernakulam nor did he apply for permission to retain the same. The applicant was not allotted any Quarter at

Peerumedu and was not getting HRA. Normal licence fee was being recovered from his pay and allowances for the occupation of the Quarter No.108-D at Ernakulam. While so, all of a sudden, the applicant was served with Annexure A1 communication proposing to recover a sum of Rs.2590/- per month towards damage rent with effect from 13-8-1998 commencing from May, 2000 salary bill on the ground that he was in occupation of the railway Quarter No.108-D at Ernakulam unauthorisedly. The applicant submitted Annexure A2 reply in which he stated that he did not apply for permission to retain the Quarter out of ignorance and requesting that penal rent may not be recovered. The recovery of penal rent was not pursued after that date for sometime. However, the applicant was transferred back to Ernakulam and he joined there on 13-7-2000. The occupation of the Quarter by the applicant was regularized thereafter. Thereafter, the applicant was served with a copy of Annexure A3 regarding recovery of penal rent for the unauthorized occupation of Railway Quarters by a number of people including himself. A total amount of Rs.19,069/- was stated to be the amount due from the applicant towards penal rent. The applicant submitted Annexure A4 representation. Finding no response, the applicant filed OA.No.244/02, which was disposed of with a direction to the 3rd respondent to pass appropriate orders on his representation. In obedience to the above direction, the 3rd respondent has passed the impugned order Annexure A6 justifying the decision to recover the penal rent on the ground that the applicant's occupation of the Railway Quarter was unauthorized and rules provide for recovery of penal rent. The contention that the applicant has been discriminated has also been met by stating that all similarly situated persons have been dealt with in the similar manner. Aggrieved, the applicant has filed this application seeking to set aside the impugned orders.



2. Respondents seek to justify the impugned orders on the ground that the applicant having not been granted permission to retain the Railway Quarter and the occupation of the Railway Quarter by him being against the rules, the action taken for recovery of penal rent is in accordance with the rules and instructions on the subject and this position has been upheld in Rampoojan vs. Union of India and Another [(1996) 34 ATC 434].

3. We have carefully gone through the pleadings and materials placed on record and have heard the learned counsel on either side. The fact that the applicant was in occupation of the Railway Quarter No.108-D at Ernakulam even beyond the date of his transfer and relief from Ernakulam to Peerumedu is not in dispute. It is also not in dispute that the applicant has neither sought permission to retain the Railway Quarter nor was granted the same. Under these circumstances, the continued occupation of the Railway Quarter by the applicant after he was relieved from Ernakulam was unauthorized. A railway employee who is in unauthorized occupation of the Railway Quarter is liable to pay penal rent. The action taken by the respondents, therefore, is unexceptionable. We do not find any infirmity with the impugned orders and therefore, we decline to interfere.

4. In the result, the Original Application is dismissed leaving the parties to bear their respective costs.

Wednesday, this the 28th day of July, 2004

H.P. DAS
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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