

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 402/2007**

This the 19<sup>th</sup> day of February, 2008

**Hon'ble Shri Justice Khem Karan, Vice Chairman**

Mumtaz Mohammad son of late Sri Moinuddin, aged about 34 years, resident of House No. 570/499, Virat Nagar, Alambagh, Lucknow.

Applicant

By Advocate: Sri K.P.Srivastava

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. Chief Medical Superintendent, Northern Railway, Charbagh, Lucknow.

Respondents

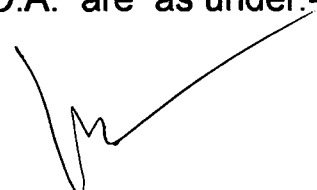
By Advocate; Sri V.K.Khare

**ORDER (ORAL)**

**HON'BLE SHRI JUSTICE KEHM KARAN, VICE CHAIRMAN**

Applicant has prayed for quashing the recovery of penal/damage rent from his salary and for asking the respondents to regularize his occupation of Railway residential quarter at Unnao from 10.7.2004 to 16.6.2007.

2. The brief facts giving rise to this O.A. are as under:-




While working as Health Attendant in Railway Hospital of Northern Railway at Unnao, applicant was transferred to Lucknow vide order dated 30.1.2004. At that time he was occupying railway residential quarter No. M-B.E. Aggrieved of this transfer order, he filed one O.A. No. 263 of 2004, saying that the transfer was bad. In that O.A., the Tribunal passed an interim order, for maintaining status quo. Copy of which is Annexure A-1. That O.A. was ultimately dismissed on 13.7.2005. He alleges, he was never spared from Unnao, so as to enable him to join at Lucknow and he was on leave from 14.5.2004 to 24.5.2004, was under medical treatment upto 9.7.2004, was on leave on average pay from 23.6.2004 to 30.6.2004. He says, the Medical Officer, Unnao gave him notice on 5.8.2005 for vacating the residential quarter, which he replied on 22.8.2005 (A-4). He says that he vacated the Railway Quarter at Unnao on 19.6.2007. His grievance is that the respondents are making recovery @ Rs. 2375/- per month from his salary of June (paid in July) without apprising him of the order of recovery, amount to be recovered, grounds of recovery etc. He says, so far respondents have recovered about Rs. 43000/- from his salary and it is not known as to how much amount is still to be recovered from his salary for the alleged retention of the Govt. quarter at Unnao. He says that <sup>6</sup> according to Railway Board's circular dated 1.6.2001, he should have been allowed to retain the accommodation as his children were getting education there but the authorities have passed no order on his request.

3. In their reply/ objection, respondents have contended that since the applicant has not filed copy of the impugned order, so the O.A. is not maintainable and deserves to be dismissed on this ground alone. They say that soon after the transfer order dated 30.1.2004, applicant ought to have vacated the railway quarter at Unnao as he was not allowed to retain the railway quarter at Unnao beyond the period permissible under rules and so his possession was unauthorized. It is stated in para 9 that request dated 2.8.2005 seeking the retention of house from retrospective date was legally not possible. They say in para 10 that leave was not sanctioned for the period from 15.5.2004 to 9.7.2004. It is stated that applicant was spared on 18.6.2004, so as to join at Lucknow. In para 14, they say that notice was served on the applicant (copy of which Annexure A-3). According to him, applicant is not entitled to the relief as prayed for.

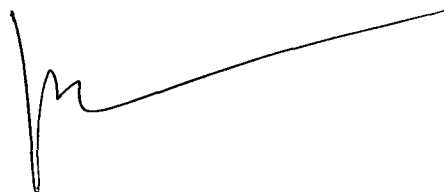
4. I have heard Sri K.P. Srivastava appeared for the applicant and Sri V.K. Khare for the respondents and perused the entire material available on record.

5. This much is not in dispute that applicant was transferred vide order dated 30.1.2004. He was spared in June 2004 from Unnao to join at Lucknow. It is never the case of the applicant that his request for retention of railway accommodation, after his transfer from Unnao, was acceded to by the authorities. Order of status quo passed in earlier O.A. merged into the final order by which the O.A. was dismissed. In absence of any express



permission from the authorities concerned for retaining the railway accommodation beyond June, 2004 his occupation of residential quarter at Unnao was apparently unauthorized. Moving of applications by the applicant for permission of retention of railway accommodation on any ground was not sufficient enough unless such permission was accorded by the competent authority. Recovery is being made from the salary of the applicant since July 2006. It is surprising that he filed this O.A. only in September, 2007. In case he had no knowledge of the order on the basis of which, recovery was being made, he ought to have made genuine efforts to get the same. Without filing copy of that order, he has come to this Tribunal. It is not believable that he is not in know of the amounts to be recovered, in the shape of penal/ damage rent for retaining the railway residential quarter at Unnao, beyond the period, permissible under the Rules. But there is no difficulty if the respondents again give him <sup>that</sup> final information.

6. So, this O.A. is finally disposed of with a direction to the respondent No.3 to apprise the applicant again about the total amount which was to be recovered and which remains to be recovered from the salary of the applicant, in connection with unauthorized occupation of railway quarter at Unnao. In case the applicant makes any application for making further recovery at reduced rate, then the respondents will consider the same sympathetically. This shall be done within a period of 2 months from



the date, a certified copy of this order is produced before respondent  
No. 3. No costs.

*James*  
19.2.08  
Vice Chairman

HLS/-