

Central Administrative Tribunal, Lucknow Bench,

Lucknow

Original Application No. 102/2010

This the 25th day of March, 2010

Hon'ble Dr. A.K. Mishra, Member(A)

Anand Saroj Pandey, Aged about 48 years, S/o Sri R.S. Pandey, R/o C/o Station Superintendent, Barabanki.

.....Applicant

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through the G.M., N.R., Baroda House, New Delhi.
2. The Additional D.R.M., N.R., Lucknow.
3. The Sr. Divisional Operating Manager, N.R., Lucknow.

.....Respondents

By Advocate: Sri S. Lavania

ORDER (Oral)

Heard both parties.

2. It is the case of the applicant that he was relieved from the post of Assistant Station Master (ASM), N.R., Lucknow on 18.10.2001 for joining on deputation on the post of Investigating Inspector in Vigilance Directorate of Railway Board at Delhi and joined on the aforesaid post on the same day itself at Delhi. He was promoted to the post of Investigating Superintendent on 16.7.2002 in the Railway Board. The applicant was permitted by the Senior Divisional Operating Manager (respondent no.3) in his letter dated 30.7.2002 to retain the railway quarters allotted to him at Lucknow for first two months on normal rent and thereafter



on payment of double the normal rent till he is allotted railway quarters at Delhi under general pool or till some one, junior to him, is allotted such quarters at Delhi. According to the applicant, no quarter at Delhi were allotted to him and rent as applicable in terms of the letter dated 30.7.2002 has been regularly deducted from his salary; therefore, there was no illegality committed by him.

3. However, the respondent no.3 informed the applicant vide letter dated 29.8.2006 (Annexure-1) that the penal rent would be recovered from him in view of audit objection raised. He was advised by the respondent no.3 to file an appeal before the respondent no.2, which was done by him. However, the respondent no.2 in his order dated 11.8.2009 has rejected the appeal of the applicant on the ground that his claims were not based on the rules governing on the subject. This order is challenged in the O.A. on the ground of non-application of mind in view of the fact that the claims of the applicant have not been discussed in detail, and the appellate order does not reveal the reasons why his claims were rejected particularly when those were supported by the permission granted to him by the respondent no.3 in his letter dated 30.7.2002.

4. I feel that the merits of the grievance of the applicant have not been discussed, in detail, by the appellate authority. Therefore, the appellate order is set-aside. The appellate authority is directed to review his order and reconsider the appeal/representation of the applicant in the matter of imposition of penal rent. The Application and enclosures filed in the Tribunal may be treated as additional representation. The applicant is directed to file a comprehensive representation alongwith a copy of O.A. and its enclosures before respondent no.2 within two weeks. The



respondent no.2 may dispose of the comprehensive representation and additional representation of the applicant within a period of two months from the date of receipt of representation by passing a reasoned speaking order according to Rules. Till disposal of his appeal (comprehensive representation), the penal rent should not be recovered from the salary of the applicant except in accordance with the stipulation mentioned in the letter dated 30.7.2002. The impugned appellate order would be treated as quashed if the representation is submitted by the applicant within the time granted by this Tribunal.

5. The O.A. is disposed of accordingly. No costs.


(Dr. A.K. Mishra)
Member-A

Girish/-