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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 22/91

Harihar Sahai

Applicant

versus

Union of India & others

Respondents.

Shri S.P.Srivastava, Counsel for Applicant.

Shri Anil Srivastava, Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who had earlier vacated quarter which was in ^{his} possession has approached the Tribunal with the prayer that the respondents be directed to pay him the rent illegally deducted from the applicant in excess at the rate of Rs 78.25 totalling to Rs 6,517.16 alongwith interest and damages and the respondents may be directed to pay 10 times compensation.

2. The facts of the case are that the applicant was Chief Parcel Supervisor. He was allowed railway ~~quater~~ quarter on monthly rent of Rs 15.74. The applicant built his own house for which proceedings for vacation were going on. On 30.1.1976 the railway administration instructed his employees who owned their house in the city that the employees should vacate the railway quarter

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failing which six time penal rent per month shall be charged. Another circular was issued cancelling the previous circular dated 30.1.1976 and permitting them to retain quarter without any penal charges.

3. Notwithstanding the circular the Railway Administration continued to deduct the penal rent from the salary of the applicant. The applicant filed suit in which it was prayed that it may be declared that he is not liable to pay any amount and restraining the respondents not to deduct the penal rent. The suit was decreed by the Court of Munsif South, Lucknow. Union of India filed appeal which was dismissed by the Addl. District Judge. It was thereafter the second appeal was filed and in the second appeal it was held that after the said circular has been issued even then the applicant's complaint is that they continued to deduct the penal rent.

rent as the amount continued to be deducted from the applicant, and the applicant gave a notice and thereafter the applicant ~~approached~~ filed a Suit in the year 1987.

5. The facts make it clear that earlier circular on the basis of which penal rent was deducted from the applicant, having been withdrawn, became non-existent and the respondents were not within their right to deduct the penal rent.

6. The respondents have filed reply in which they have contended that the instant suit is time barred

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and recovery was not prayed in the suit and that the Tribunal has no jurisdiction to entertain. The cause of action pertains to 1982 and the applicant retained the railway quarter for 54 months after his retirement and he was liable to pay amount of Rs 6,517.16. Earlier suit was only for declaration and there was no occasion for the applicant to claim that refund and as such in the claim for declaration it was not necessary to claim relief for refund of the amount which was deducted. Regarding jurisdiction the matter went up to the appeal and the appeal was decided in the year 1985 even thereafter deduction continued to remain and the process continued and there is no question of invoking jurisdiction of the Tribunal and the plea of jurisdiction is rejected. If the applicant continued to occupy the quarter after retirement which is a separate cause of action the railway can take any action if legally it can do so. This application is allowed and the railway administration is directed to refund the amount which has been deducted as penal rent from the applicant which is said to be Rs 6,517.16. Let the amount be refunded within a period of three months. On the amount after decree of the suit, Railway Administration will pay interest at the rate of 12% and let the payment be made within a period of 3 months.

7. Application is disposed of as above. No order as to costs.

A.M.

V.C.

Shakeel/

Lucknow: Dated 20.11.92