

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

O.A. No. 437/2006

This, the 12th day of January 2007

Hon'ble Mr. A. K. Singh, Member (A)

Vijay Kumar (V.K.) Srivastava aged about 53 years son of late T.P.Srivastava, Ex. DSL Assistant Now under posting as TTE in ulternate category being decategorised and resident of Khojanpur Faizabad.

Applicant.

By Advocate Shri A.C. Mishra.

Versus


1. Union of India through General Manager Northern Railway, Headquarter Office Baroda House New Delhi.
2. The Divisional Railway Manager, Northern Railway Divisional Office, Lucknow.
3. The Senior Divisional Mechanical Engineer Divisional Office, Northern Railway, Hazaratganj Lucknow.

Respondents.

By Advocate Shri V.K. Khare.

Order (Oral)

By Hon'ble Mr. A. K. Singh, Member(A)

 O.A. bearing No. 521/2006 has been filed by the applicant V. K. Srivastava (address given in the O.A.) against

the order of respondents for recovery of damage rent to the tune of Rs. 1,43,229/- from him.

2. The brief facts of the case are that the applicant has been working as Diesel Assistant at Lucknow under the Divisional Mechanical Engineer Divisional Office, Northern Railway, Hazaratganj, Lucknow, who is respondent No. 3 in this O.A. Applicant submits that he has been living in Qr. No. 1-35/E at Baraha Colony as per regular allotment order dated 15.4.1993 from the respondents. The applicant was transferred from Lucknow to Faizabad on the same post of Diesel Assistant on 15.4.2001. As his father's open-heart surgery was to be conducted in the near future in N.E. Railway Hospital Badsah Nagar, he preferred a representation-dated 27.4.2001 to allow him to retain his quarter at Lucknow for the time being and his request for retaining the quarters for a period of 8 months i.e from 25.4.2001 to 24.12.2001 was allowed and regular monthly rent was recovered from his salary accordingly. Due to impending open-heart surgery of his father, he applied for his retransfer to Lucknow before the competent authority but it took nearly three years for them to issue his transfer order posting him back to Lucknow. He was ultimately transferred to Lucknow vide order dated 14.7.2004. On his retransfer to Lucknow, the possession of the aforesaid quarters in which he was living should have been regularized by the authorities but it was not done.

3. Instead, the respondents passed order for recovery of damage rent from the applicant for the period for which he overstayed in the aforesaid quarter since 25.4.2001. A total of damage rent amounting to Rs. 1,43,229/-, has been ordered to be recovered from his salary by the respondents.

4. The applicant submits that recovery of damage rent from the applicant is being done without the support or authority of any specific rule. The instructions for recovery of penal rent for unauthorized occupation of quarters by a railway employee are contained in 1711 of Indian Railway Establishment Manual Vol., II which can be reproduced as under: -

“1711. Recovery of rent.-(a) The rent charged to a railway servant in respect of quarters supplied should not exceed 10 per cent of his/her monthly emoluments irrespective of the scales of pay allotted.

(b) Notwithstanding anything contained in subparagraph (a), Railway Administration may, by general or special order, provide for charging a rent in excess of 10 per cent of the emoluments from a railway servant-

(i) Who, is not required or permitted to reside on duty at the station at which the residence is supplied to him, or

(ii) Who, at his own request, is supplied with accommodation which exceeds that which is appropriate to his status, or

(iii) Who is permitted to sublet the residence supplied to him, or

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(iv) Who sublets without permission the residence supplied to him, or

(v) Who does not vacate the residence after the cancellation of the allotment.”

5. According to this Rule, if a railway employee does not vacate the residential quarters allotted to him after termination of the period of allotment, the penal rent to be recovered from him should not exceed 10 per cent of his/her monthly emoluments irrespective of the scales of pay allotted. In the present case, the recovery of a penal rent of Rs. 1,43,229/- is clearly violative of the aforesaid rule. The counsel for applicant Shri A.C. Mishra submits that he has already filed a representation to General Manager Northern Railway, Headquarter Office Baroda House New Delhi against this illegal recovery. He, submits that he will be satisfied if a direction is issued to General Manager Northern Railway, Headquarter, who is respondent No. 1 in this case, to decide the aforesaid representation in accordance with the above rules.

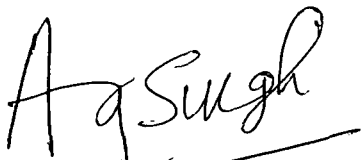
6. I have considered the matter. I find that there is substance in the request made by the counsel for the applicant Shri A. C. Mishra. I feel, the interest of justice will be adequately met if respondent No. 1 namely General Manager Northern Railway, Baroda House New Delhi is directed to decide the representation of the applicant dated 23.5.2006 in accordance with the aforesaid instructions contained in Para 1711 of Indian Railway Establishment Manual Vol. II through a

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speaking order within a period of 2 months from the date of receipt of a certified copy of this order. He may also consider refunding the amount excess charged from applicant in violation of the aforesaid rule.

7. The O.A. bearing No. 437/2006 is disposed of in the manner stated above without any order as to costs.


(A.K. Singh)
Member (A) 12/11/07

v.