

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application NO:149/2007 .

This, the 19th day of May 2008.

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

A.K Hundoo aged about 63 years S/o Kate S.N. Hundoo resident of L-II 48 D, Sector-D, LDA Colony, Kanpur Road Lko.

Applicant.

By Advocate: Sri Siya Ram.

Versus

1. Union of India, through General Manager, N. Rly., New Delhi.
2. Chief Workshop Engineer, N. Rly., Hd. Qrs. Officer, Baroda House, New Delhi.
3. Chief Works Manager, N.Rly., C&W Alambagh, Lko.
4. Divisional Engineer (HQ), Estate Officer, N. Rly, Hazratganj Lucknow.
5. Deputy Chief Financial Advisor and Chief Accounts Officer (S&W) N. Rly, C&W, Alambagh, Lko.

Respondents.

By Advocate: Sri N. K. Agarwal.

Order

By Hon'ble Mr. M. Kanthaiah, Member (J):

The applicant has filed original application to quash the impugned orders dated 3.1.2007 (Annexure A-6) and dated 14.2.2007 (Annexure A-7) issued by respondent No. 2 and 3 respectively and to treat that he was not in unauthorized occupation of the Railway Quarter for the period from 1.4.2005 to 24.4.2005 and also not liable for payment of damage rent as claimed by the authorities.

2. The respondents have filed counter affidavit denying the claim of the applicant stating that there is no error committed by the respondents while passing the impugned orders and thus supported their action that the applicant was in unauthorized occupation of the quarter.

3. The applicant has filed rejoinder affidavit denying the stand taken by the respondents and also reiterated his pleas in the original application.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

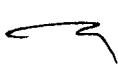
6. The admitted facts of the case are that the applicant while working as Chief Office Superintendent (Establishment) occupied Railway Quarter, bearing No. C&W -7, Langra Phatak, Lucknow. He retired on 31st July 2004, on attaining superannuation. He made representation under Annexure A-8 dated 9.7.2004 for retention of the said quarter for four months after his retirement i.e. 1.8.2004 to 30.11.2004 and the same was permitted by the authorities covered under Annexure A-9 dated 9.8.2004. . Subsequently, the applicant also made another request for extension of another four months covered under annexure A-10 dated 19.11.2004 on the ground of ill health of his wife and the same was also permitted by the respondents extending four months time from 1st December 2004 to 31st March 2005 on payment of normal rent from 1.8.2004 to 30.11.2004 and double rent from 1.12.2004 to 31.3.2005, and Annexure 11 dated 24.11.2004 is the copy of the said order . Subsequently, the applicant made representation to the respondent No. 3 under Annexure A-12 dated 17.3.2005 intimating his intention to vacate the quarter and also informed the authorities for allotment of it to others. On the same day he also addressed another letter covered under Annexure A-13 informing the authorities, the quarter has not yet been allotted to any other and for allotment of it, to relieve his responsibility as caretaker. Thereafter, the respondent authorities though allotted the quarter to Shri Jag Narain, but he did not occupy it and thereafter when the same was allotted to Shri S. K. Singh, and he too did not occupy. Again it was allotted to Shri N. K. Sharma, but he did not occupy the said quarter. Thereafter, in the month of April 2005, the quarter was allotted to Shri Chandrika Prasad under Annexure 14 dated 19.04.2005, on vacation by applicant and Shri Chandrika Prasad occupied the same on 25.5.2005 when the applicant vacated.

7. After the occupation of quarter by Chandrika Prasad, the Senior Section Engineer informed the same to Respondent No. 3 and also damage rent payable for an amount of Rs. 22596/- p.m. by the applicant covered under Annexure 1 dated 2.5.2005 on the ground that he vacated the quarter on

25.4.2005, by marking copy of it to the applicant and also occupant Chandrika Prasad. On receipt of copy of Annexure 1., the applicant made representation-dated 31.3.2005 (Annexure 2), that he was not held responsible for delay in handing over quarter and it was on account of delay on the part of department. The applicant also made representation to the Respondent No. 1 for waiver of damage rent under Annexure A-15 dated 28.11.2006 in which he admitted handing over of the quarter to Chandrika Prasad on 25.5.2005.

8. Thereafter, the applicant made another representation covered under A-16 dated 25.1.2007 asking the authorities not to effect the damage rent on the ground that he vacated the quarter before 31st March 2005 itself and also intimated the authorities and thus there was no fault on his part, by marking copy of it to Jan Suchana Adhikari under Annexure A- 17. Subsequently, he also issued reminders covered under annexure A-3 and A-4. The 3rd respondent also addressed letter to the General Manager covered under Annexure 5 dated 22.11.2005 informing the representations of the applicant covered under Annexures A-2 to A4 for waiver of damage rent in which he also requested to consider the claim of the applicant, as there appears no fault on the part of the applicant. After considering the representations of the applicant, second respondent passed orders covered under Annexure 6 dated 3.1.2007, rejecting the claim of the applicant for waiver of damage rent and informed it to the respondent No. 3 to communicate the same to the applicant- and he in turn informed to the applicant under Annexure A-7 dated 14.2.2007.

9. By way of this application, the applicant has challenged the rejection orders covered Annexure A-6 and Annexure A-7 stating that there is no fault on his part and it was only because of administrative lapse, there was such delay in handing over possession of the quarter to the allottee Shri Chandrika Prasad on 25.4.2005 and thus he is not liable to pay any damage rent as claimed by the respondents.



10. The short and limited question involved in this O.A. is whether there was any delay on the part of the applicant in vacating and handing over the quarter and he is liable to pay damage rent as claimed by the authorities.

11. Admittedly, from the pleadings and documents of both the parties, it is clear that the quarter was occupied by Sri Chandrika Prasad on 25.4.2005 and further, the applicant was permitted to occupy it on payment of double rent till 31.3.2005. It is the case of the respondents that the applicant was in possession and occupation of it till 24.4.2005, till he handed over to Chandrika Prasad and as such, he is liable to pay damage rent for such 24 days as unauthorized occupant

12. It is the case of the applicant that he informed the authorities on 17.3.2005 (Annexure 12) expressing his willingness to vacate the quarter and requested to allot it to others but there was delay in occupation of it by new allottee, which was purely on the delay of the administration but not on his part.

13. Admittedly, under Annexure 12, the applicant expressed his intention to vacate the quarter but not vacated. Further, it is not the case of the applicant that he ever vacated and delivered possession of the quarter to the authorities immediately after expiry his permitted period till 31st March 2005.

14. Even, the recitals of the representations, Annexure A-13 he requested the authorities for allotment of this quarter to others and to relieve his responsibility as care taker itself shows that he was still in occupation of the quarter and not handed over it. Further, the recitals of Annexure 14, issued by the authorities, marking copy to the applicant itself shows that quarter was allotted to Chandrika Prasad on vacation by the applicant also indicates that the applicant did not vacate and he was in occupation of it. Similarly, in the representation of the applicant covered under Annexure A-15, he also admitted handing over possession of the quarter by him to Chandrika Prasad on 25.4.2005 and it is also clearly shows that the applicant was in possession and occupation of the quarter till such time and it is not the case that he

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vacated and handed over possession to the authorities on earlier occasion immediately after expiry of permitted period up to 31st March 2005.

15. In view of the above circumstances, it is clear that the applicant was in possession and occupation of the quarter till 25th April 2005 on which date he handed over to Shri Chandrika Prasad and his possession after the expiry of permitted period till March 2005 i.e. from 1st April 2005 to 24th April 2005 is nothing but an unauthorized occupation and as such, the respondent authorities branding the applicant as unauthorized occupant and claiming damage rent for such period of 24 days is neither illegal nor irregularity and further, it is justified and reasoned order. Thus there are no merits in the claim of the applicant to quash the impugned order covered under Annexure A-6 and Annexure- A7 issued by respondent No. 2 and 3 respectively and as such, the O.A. is liable for dismissal.

In the result, O.A. is dismissed. No costs.


(M. Kanthaiah)

Member (J)

19.05.2008

V.