

CENTRAL ADM. IRR.ATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

Original Application No. 400 of 1992.

Vijay Kumar Dubey

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. S.N. Prasad, Judicial Member.

The applicant has approached this Tribunal for quashing the impugned order dated 18.7.92 passed by respondent No. 4 (as contained in Annexure No. 1) and for directing the respondent $\frac{1}{4}$ to deduct the outsider rent from the salary of the applicant.

2. Briefly stated the facts of the case, inter alia, are that the applicant is working as Khalasi under respondent No. 4 and as such he is entitled for occupation of Railway Quarter at Head Quarter Pratapgarh. The applicant submitted his priority letter for allotment of railway quarter to the respondent No. 1 which well before the year 1986 and with permission of respondent No. 4 the applicant and one Shri Bindeshwari Prasad (Khalasi) has shared the quarter No. T-12/E Type II from 17.1.1986; and joint application was also given to this effect to the respondent No. 4 (vide Annexure B). Since the applicant's name figured at first place in the residential allotment list, the respondent No. 4 allotted the half of the quarter No. T-12/E in favour of the applicant as per order dated 6.10.88 and also regularised allotment of half of the aforesaid quarter from the date of its occupation i.e. 17.1.86 (vide Annexure C). The applicant has not been given house rent for the period from 17.1.86 to 5.10.88 amounting to Rs 775.25 for the said period has been deducted from the salary of the applicant

vide bill No. H.P. 14.12.1990 Rs 775.25 M.P. In the aforesaid impugned order the respondent No. 4 has referred to letter of respondent No. 3 dated 25.6.92 in which it has been mentioned that in the Joint Meeting on 11.6.92 between Divisional Secretary/N.R. M&U/U.R.M.U. with respondent No. 3 it has been decided that the outsider rent will be deducted from the salary of the applicant from the date of occupation to the date of allotment of the said accommodation which is impugned order calling upon the applicant to pay rent at the rate of outsider rent, is illegal and invalid. It has further been mentioned that the standard ^{~ing~} rent in regard to the aforesaid quarter amount to Rs 775.25 has already been deducted from the salary of the applicant and the applicant has never used the aforesaid quarter as an authorised occupant. It has further been stated that the case of the applicant is governed by Payment of Wages Act and as such no outsider rent can be deducted.

4. The respondents have filed their counter reply with the contents, inter alia, that the impugned order has been passed illegally and validly. It has further been contended that the applicant was initially allotted House No. T-12/E vide letter dated 6.10.88 (Annexure C) to the Original Application and later on the above allotment order was cancelled by the respondent No. 3 through letter dated 28.11.89 in pursuance of the decision taken in Permanent Negotiating Machinery. Pursuant thereto the applicant was informed through letter dated 2.12.89 and reminder dated 16.3.90 and the allotment order has been cancelled and the applicant was asked to vacate the aforesaid accommodation (vide Annexure C-4 to C-7 to the counter Reply). It has further been contended that since the applicant is in ^{and} occupation of the aforesaid quarter unauthorisedly since

allotment order has been cancelled and the outsider rent is to be ~~xxxlii~~ realized from the applicant and ~~xxxii~~ in view of the above circumstances the applicant is not entitled to the relief sought for.

5. The applicant has filed Rejoinder wherein he has almost set out all those view-points as mentioned in the Original Application.

6. I have heard the learned counsel for the parties and have thoroughly gone through the record of the case.

7. The learned counsel for the applicant while drawing my attention to the contents of the application, counter affidavit, Rejoinder Affidavit and the papers annex-ed thereto and while reiterating the view points as set out therein has argued that the application of the applicant should be allowed.

8. The learned counsel for the respondents has reiterated all the view points and contentions as set out in the counter reply and has stressed that the application of the applicant be dismissed.

9. This is noteworthy that the applicant is admittedly a class IV employee under the respondent No. 4 and has applied for railway accommodation on 24.12.85 as would be obvious from perusal of Para 3 of the counter reply of the respondents. This is also noteworthy in this context that this fact has also been admitted by the respondents in para 4. of ^{their} 1 counter reply that the applicant was initially allotted House No. T-12 -E through letter dated 6.10.88 (vide Annexure C to the O.A.) which corroborates the contention of the applicant as mentioned in para 4(5) of the O.A. Annexure C which is the letter dated 6.10.88 issued by the respondent No. 4 reveals that since the applicant was first in t

seniority list of the allottees the half portion of the aforesaid house allotted to him and his occupation therein which was from 17.1.86 was also regularised, and a perusal of Annexure B to the O.A. shows that a joint application was given by the applicant as well as one Shri Bindeshwari Prasad to the respondent No. 4 under whom they have been working, and showing their willingness for realising electricity charges from them. This is important to point out that from the scrutiny of entire material on record it appears that the applicant was not given the House Rent Allowance for that period i.e. from 17.1.86 to 5.10.88 and the standard rent amount to Rs 775.25 for the said period has been deducted from the salary of the applicant vide Bill No. M.B. 14.12.90 as mentioned in para 4(vi) of the O.A. This is also important to point out that a perusal of Rule 7, Chapter V, 'General Rules pertaining to Occupation of Quarters and Their Retention' shows that sharing of accommodation with a relation or railway employee is permitted in accordance with rules, indicated vide Circular No. 290-W/17-9 dated 10.7.64 given at Appendix 'H' to RULES REGARDING FUNCTIONING OF THE HOUSING COMMITTEE AND ALLOTMENT OF QUARTERS TO RAILWAY STAFF" and sharing of accommodation has been permitted in view of the acute housing situation of this Railway i.e. Northern Railway as specified in the aforesaid Appendix H. As pointed out above, as per letter of respondent No. 4 (copy of which is Annexure 'C' to this O.A.) the possession of the applicant in respect of half portion of the aforesaid quarter has been regularised and the same has been allotted to the applicant vide Annexure C. Thus, in this view of the matter and keeping in view the facts that the applicant has been allotted

Compilation - I

BEFORE THE ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

O.A. NO. 457 of 1992

Vijay Kumar Dubey Applicant
Versus
Union of India & Others Respondents

I N D E X

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2.	<u>ANNEXURE - 'A'</u> Order dated - 18.7.1992.	7
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Lucknow :

Dated : August 15, 1992

(M. JHAL KHAN)

Advocate

CCUSSEL FOR THE APPLICANT

half portion of the aforesaid quarter, the applicant ~ dubbed x cannot be / as unauthorised occupant, as the subsequent order dated 18.7.92 whereby the above allotment order has been cancelled and whereby the recovery of outsider rent has been ordered to be made for the period 17.1.86 to 5.10.88 which period has already been regularised, and it is for the allotting authority to see and satisfy himself the eligibility criteria of the individual concerned while allotting any accommodation to the ~ and as such the causing of the impugned order dated 18-7-92 individual concerned, without affording any opportunity to the applicant for cancellation of the above previous allotment order ~~but~~ does not stand to reason and sanity.

8. Thus, from the foregoing discussions and after considering all aspects of the matter and keeping in view the above attenuating and extenuating circumstances, I find no cogent ground for realization of outsider rent ~ aforesaid ~ from the applicant for the period from 17.1.86 to 5.10.88 as stated in the impugned order dated 18.7.92; ~ to the counter reply ~ and I find that Annexures C-1 to C-4 are found to be of no avail to the respondents.

9. Consequently, the application of the applicant is allowed and the respondents are directed not to recover the outsider rent from the applicant for the period ~~17.1.86~~ from 17.1.86 to 5.10.88. No order as to costs.



JUDICIAL MEMBER.

LUCKNOW Dated 28.9.93

28.9.93

Shakeel/