

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

REGISTRATION NO. OA 337 of 1996

DATE OF ORDER : 14.07.2000

Suniti Choudhary, wife of Sri Ram Suresh Jha, resident of Mohalla Anandpuri, P.S. Anandpuri, District- Patna, at present working as Lady Telephone Operator at Trunk Manual Exchange, Patna.

..... APPLICANT

By Advocate Shri J.K. Karn.

Versus

1. The Union of India, through the Chief General Manager, Telecom, Patna.
2. The General Manager, Patna Telephones,
3. The Assistant Engineer (Planning II) TDM, Patna.
4. The S.D.M. Trunk , Telephone Exchange Patna.

..... RESPONDENTS.

By Advocate Shri H.P. Singh, Addl. Standing Counsel.

C O R A M

Hon'ble Mr. Lakshman Jha, Member (J)

Hon'ble Mr. L. Hmingliana, Member (A)

O R D E R


L. Hmingliana, Member (A):-

The applicant is a Telephone Operator at Patna. She occupied quarter No. 250 Type II, P&T Colony, Kidwaipuri without allotment in her favour, first sharing it with the allottee Shri B. Tripathy from December, 1991 till his transfer and vacation of the quarter in June, 1993, and then on her own till 22.1.1995. The Recovery

of damage charges was made from her salary at the rate of Rs. 1454/- . Her OA is for quashing the recovery process, which, according to her, was resorted to without a formal order, and for refund of the entire amount which have already been recovered. ~~The~~ Departmental inquiry was also initiated against her with the issue of memo dated 30.1.1996 under Rule 16 of the CCS (CCA) Rules, 1965 for her unauthorised occupation of the quarter, and it is her prayer that the initiation of the departmental inquiry be quashed.

2. It is undisputed that she did not obtain permission for sharing the quarter with the allottee, and that she was in unauthorised occupation of the quarter till 22.1.1995, when she vacated the quarter, except for the period from 23.7.1993 to 22.10.1993, for which period she was given permission to stay in it.

3. It is stated in the written statement that the recoveries were made from her salaries from January to March, 1994 and from January 1995 to July, 1996. The period or periods of unauthorised occupation for which damage charges were recovered are not given in the written statement or even in the OA. It would appear that no formal order for effecting the recovery was passed. The applicant filed OA 138/94, which was stated to be against the recoveries, which was started from January, 1994. The Tribunal stayed the order vide its order dated 30.3.1994. But the stay was on the operation of the letter dated



11.11.1993 issued to her for vacating the quarter, failing which penal rent @ Rs. 1454/- per month would be deducted. The OA was dismissed as withdrawn by the Tribunal vide order dated 6.10.1994, on the submission made on behalf of the respondents that if the applicant made a fresh representation before the Department for allotment of quarter in her favour, her representation would be considered. In the order of the Tribunal, it was made clear that the applicant must / vacate the quarter immediately, failing which her representation before the department would be liable to rejection. As we have already said, the application vacated the quarter more than three months later, inspite of the Tribunal's observations.

4. It is stated in the written statement that the recovery of damage charges @ 1454/- was as per rules, but without furnishing the rules. The area of the quarter and how the damage charges were worked out have not been given in the written statement or even by the applicant. Then we have to presume that the damage charges were worked out correctly as per rules.

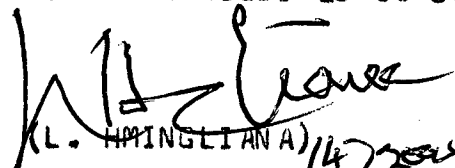
5. As we have said, the period during which the applicant was in unauthorised occupation of the quarter has not been given by the respondents. But we find from the written statement that the recoveries @ ^R1454/- per month were made from the salaries of the applicant ~~from~~ ^{for} 22 months. It is not known how this period of 22 months

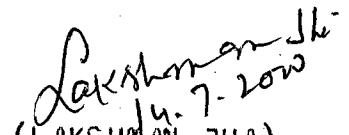
was arrived at. But as contended by the applicant's learned counsel, Shri J.K. Karn, the applicant could not be held responsible for sharing the accommodation with the allottee, Shri B. Tripathy, as long as he himself had retained the accommodation, ^{as} it was his responsibility to obtain permission of the authorities for sharing his accommodation. We make this observation in the absence of the rules, and in case there is clear provision in the rules ^{to the contrary,} that will have to be followed in other case, but not in the present matter. Then, at the most, the damage charges could be recovered from the applicant, ^{only} for the period from July, 1993 till January, 1995, when she vacated the quarter. Out of this period, she was permitted by the authorities to stay in the quarter for three months from July 23, 1993 to 22 October, 1993, for which she could be charged at the normal ^{rate} ~~rent~~ of occupation. Then the damage charges can be allowed to be recovered from the applicant for the remaining 16 months only. For want of adequate information, we are going to grant the applicant ~~the~~ limited relief to that extent.

6. As regards the departmental inquiry instituted against her for minor penalty, it is not known as to what has happened to the inquiry, and whether ~~the~~ final order has been passed or it has been dropped. Then, we are not going to grant relief to the applicant in regard to the departmental inquiry.

7. The application is partly allowed. The

recoveries of damage charges from the applicant's salaries shall be restricted to 16 months @ Rs. 1454/- per month, and for three months, the recovery shall be at the normal rate of rent or licence fee for the quarter. The amount recovered in excess shall be refunded to the applicant within four months from the date of communication of this order to them. There shall be no order as to costs.


(L. HINGLIANA)
MEMBER (A)


(LAKSHMAN JHA)
MEMBER (J)

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