

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PATNA BENCH, PATNA.

Registration No. OA - 413 of 1996

Date of order: 10.03.99

Smt. Laxmi Devi W/o late Durga Prasad Singh, aged 43
years and now posted at T.T.E. at Ranchi, S.E. Railway,
District - Ranchi Applicant

By Advocate Mrs. M.M. Pal with Mrs. N. Bala
& Shri M.P. Dixit.

Versus

1. Union of India through the General Manager, S.E.
Rly., Garden Reach, Calcutta.
2. Divisional Rly. Manager, S.E. Rly., Adra Division.
3. Addl. Divisional Rly. Manager, Adra Division
District - Purlia.
4. Divisional Comml. Manager/Adra, S.E. Rly. Adra
Division, Distt.- Purlia. Respondents.

By Advocate Shri Gautam Bose.

CORAM : Hon'ble Mr. Justice S. Narayan, Vice-chairman.

O R D E R

Hon'ble Mr. Justice S. Narayan, Vice-chairman:-

In this OA, the order dated 26.6.96 of the
respondents Rly. Authorities has been challenged. By
this order, the applicant was asked to deposite a sum
of Rs. 38,707/- by way of damage charges for occupying
Rly. quarters during the period from 12.9.91 to 8.5.95.
The extract of the said order needs to be placed
hereunder.

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" On expiry of the abovenamed you retain the Rly. Qurs. No. DS/II/51/D at HTE for the period from 12.9.91 to 8.5.95 unauthorisedly.

Accordingly the damage charges of the above Rly. Qurs. and other charges have been assessed to Rs. 50,827/- for recovery from the sett. dues of Lt. D.P. Singh. The DCRG amount to Lt. Singh has been certified for Rs. 12,120/- only. The other sett. dues have already been paid to you. There is no source of recovery the balance amount i.e. Rs. 50,827 (-) 12,120/- = Rs.38,707/-

You are, therefore, requested to deposit the amount of Rs. 38,707/- to the Divisional Cashier in Adra or any Booking office under the allocation of Z-210 and submit the original money receipt to this office to dispose of the settlement case of Lt. Singh."

2. At this juncture, some relevant facts need to be placed. The applicant was the widow of late Shri Durga Prasad Singh, who, working as Material Clerk in the Rly., died in harness on 11.9.91. The applicant's husband was occupying the quarters duly allotted by the respondents. Naturally, therefore, the applicant being the widow of the deceased continued occupation therein. What happened subsequently is that on the ground of death of late Durga Prasad Singh, his widow i.e., the applicant was appointed by the Rly. authorities on the post of Ticket Collector by way of appointment on compassionate ground. She joined the post with effect from 4.11.92. Since the place of posting of the applicant was the same as that of her deceased husband, she continued occupation of the quarters. It may also be recorded here that at the initial stage the applicant filed an application for seeking permission to occupy the quarters for a period of 7 months from the event of her husband's death. At some subsequent stage, of late, the applicant was allotted

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Rly. quarters from some other pool. It may be mentioned that the quarters occupied by her husband was from Engineering pool. But, subsequently, the applicant was provided with one quarters of Commercial pool. Be that as it may, the period from 12.9.91 (i.e. after the death of applicant's husband) to 8.5.95 (when she vacated the quarters) has been taken as the period of unauthorised occupation of the quarters-in-question.

3. In context of the facts which have been noticed above, it is very much ~~astack~~ striking that certain amount of Death-cum-retirement-gratuity, which has fallen due to the applicant on the sad demise of her husband, has been attached by the Rly. authorities. A sum of Rs.12,120/- which was due to be paid to her as DCRG amount was withheld against the disputed damage charges. In my considered opinion, this appears to be the most unjustified. Any amount payable under the head DCRG amount becomes payable to the legal heir of the deceased. If subsequent to the death of her husband any damage charge was at all payable by the applicant, it was open for the Rly Authorities to directly move against her and not against the amount of DCRG. I say so more in view of the hard fact that the applicant had already been provided employment under the Rly. and it was open for the Rly. authorities to realise any amount from her own personal account. It is also significant to note that the damage charges were being levelled ~~against~~ for the occupation of quarters by the applicant and not for any amount having been due to be recovered from the deceased. The gratuity amount, once it had fallen due, had got to be disbursed to the legal heir. In this view of the matter, I would certainly intervene with that portion of the impugned order and direct that no part of the damage charges should be adjusted with the DCRG amount.

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4. Now, coming to the other aspect of the matter which relates to the occupation of the quarters-in-question, there are certain facts which have to be noticed while taking decision on the point. The Rly. authorities appear to have, most certainly, taken compassionate view of the matter on the death of the applicant's husband. It was in this view of the matter that the applicant was provided with a job and, that too, at a place where her husband was posted prior to his death. Secondly, the Rly. Rules did provide for continuation of occupation of quarters for about 6 months. In the event of death of the incumbent, the family members of the deceased employee of the Rly. would continue occupation of the quarters for 6 months. In this view of the matter, there should be no reason why the applicant should be asked for damage charges atleast for 6 months ^{onwards from} ~~12.9.1991~~. Yet another aspect of the matter is that no specific order of the Rly. could be brought to my notice that at any particular point of time there was clear cut order given by the authority with a cut-off date to vacate the quarters. In a circumstance like this, while occupying the quarters previously occupied by her deceased husband, the applicant was supposed to be in a legitimate and reasonable expectation to continue therein as a rightful occupant. Because of the fact that even the Rly. authorities did consider that she deserved compassion because of her husband's death in harness and further that there was inordinate delay in taking decision to impose damage charges, I am of the view that the extent of the amount payable for occupation of the quarters beyond 6 months of the death of the applicant's husband should be reconsidered with compassionate view. While reconsidering the matter, the Rly. authorities are expected to keep in view certain hard facts which have been noticed above such as (a) occupation of the quarters for 6 months being valid after the death of the incumbent, (b) subsequent allotment of a different quarters in her own capacity on her

compassionate appointment and (c) belated decision of charging damage charge.

5. From the submissions made at the bar, I have been convinced that there was scope for the Rly. authorities to go for charging special licence fee or even penal rent only at double the admissible rate for the period which may be deemed^{as} an unauthorised occupation. It is thus directed that the Rly. should take compassionate view while imposing any charge for occupation of the quarters-in-question.

6. In view of what has been discussed above, the impugned order dated 26.6.96 of the Rly. authorities is modified. This OA is allowed in part with the observation as made above. The applicant would be at liberty to represent her case afresh for determination of the rent payable for the period beyond 6 months from the date of her husband's death till she actually vacated the quarters in question. The amount of gratuity being Rs.12,120/- adjusted by way of damage charges should be released forthwith.

MAA


(S. NARAYAN)
VICE-CHAIRMAN