

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 472 OF 2005

[Patna, this *Monday*, the *16th* Day of January, 2011]C O R A M

HON'BLE MR. JUSTICE ANWAR AHMAD, MEMBER [JUDL.]

.....
 Rajeev Kumar Ranjan, son of Shri Ram Ashray, Coach Attendant,
 E.C.Railway, Muzaffarpur under D.R.M., E.C.Railway, Sonpur, resident of
 village Naya Tola Naugachhia, PO – Naugachhia, District – Bhagalpur.

.....APPLICANT.

By Advocate :- Shri Sudama Pandey.
 Shri S.K.Singh.

Vs.

1. The Union of India through General Manager, E. C. Railway, Hajipur.
2. The Divisional Railway Manager, E. C. Railway, Sonpur.
3. The Divisional Railway Manager, [C], E. C. Railway, Sonpur.

.....RESPONDENTS.

By Advocate :- Shri A. K. K.Sahay, ASC.

O R D E R

Justice Anwar Ahmad, M[J]:- This OA has been filed by the applicant,
 Rajeev Kumar Ranjan, Coach Attendant, E. C. Railway, Muzaffarpur, for the
 following reliefs :-

“8.1 Your Lordships may graciously be pleased to quash and set aside the orders contained in Annexures-A/1 & A/2.

8.2 The respondents be restrained from making recovery of damage rent at the rate of Rs.2257/- per month as proposed with recovery of heavy arrear amounts amounting to Rs.1,64,257/- with effect from 28.02.1995.

8.3 The respondents be directed to stop recovery of damage rent with arrears as proposed.

8.4 The respondents be directed to recover Rs.24/- only per month, i.e., the normal rent of quarter which was being recovered in past prior to March, 2005.



8.5 *Any other order or orders as your Lordships may please deem fit and proper in the interest of Justice.*

8.6 *The damage rent recovered during last months be refunded.*

8.7 *Cost of the case may please be awarded."*

2. The learned counsel for the applicant submits that the applicant was initially appointed in Group 'C' service on 17.04.1991 and was posted at Sonpur railway station. He was allotted railway quarter No. Type I T/127-K at Barbatta Colony on 29.06.1992 [Annexure-A/3]. He occupied the quarter on 07.07.1992 [Annexure-A/4]. He was promoted to the post of Coach Attendant and was posted at Muzaffarpur vide order dated 28.02.1995/02.03.1995 [Annexure-A/5]. He was spared on 23.03.1995 [Annexure-A/6] and he joined on 24.03.1995 on the post of Coach Attendant at Muzaffarpur. He filed representations dated 28.03.1995 and 04.04.1995 [Annexure-A/8 series] for permission to retain the railway quarter at Sonpur on normal rent till a quarter was provided to him at Muzaffarpur. Learned counsel submits that no quarter was provided to him at Muzaffarpur and hence, the applicant continued to retain the said quarter on verbal permission of DCM. He submits that normal rent of Rs.24/- per month was being deducted from the pay of the applicant as is evident from the pay slip of March-April, 2005 [Annexure-A/7]. He submits that all of a sudden a letter dated 18.02.2005 [Annexure-A/2] was received stating therein that the applicant was occupying the quarter at Sonpur inspite of his transfer to Muzaffarpur from 28.02.1995 and did not vacate the same and hence, penal rent was ordered to be recovered. The applicant thereafter received a letter dated 26.04.2005 [Annexure-A/1] directing him to vacate the



quarter within ten days failing which disciplinary proceedings would be initiated and case would be filed before the Estate Officer, Sonpur. In this letter it is also stated that damage rent was being deducted from 28.02.1995 vide letter no.18.02.2005 [Annexure-A/2]. He submits that after the receipt of the letter at Annexure-A/1 to vacate the quarter within ten days, the applicant vacated the quarter within that period on 11.05.2005 [Annexure-A/9]. The learned counsel further submits that on transfer from Sonpur to Muzaffarpur the applicant had filed representations for retaining the quarter at Sonpur till the quarter was allotted at Muzaffarpur. He submits that no quarter was allotted at Muzaffarpur and in the circumstance the applicant was continuing in the quarter at Sonpur. He submits that the DCM had also granted verbal permission to the applicant to continue in the quarter. He submits that the applicant was never asked to vacate the quarter and normal rent was being deducted from the pay of the applicant. He submits that no disciplinary proceeding or eviction proceedings under Section 7 of the PP Act, 1971 was initiated against the applicant. So, he submits that the impugned orders are illegal and the OA be allowed, and the reliefs prayed for be granted.

3. The learned counsel for the respondents, on the other hand, submits that as per circulars at Annexure-A & A/1 to the written statement, a railway servant on transfer from one station to another station is entitled to retain the quarter for two months on normal rent and for further extension for six months on payment of double rent provided the permission is granted on educational or on sickness ground. He submits that in the event of failure to obtain permission to retain the quarter it is deemed that the employee is under



unauthorised occupation of the quarter and he makes himself liable for payment of damage rent. He submits that no representation for retaining the quarter at Sonpur till any quarter was allotted at Muzaffarpur, was received as alleged by the applicant. He submits that it is not correct to say that the DCM had granted verbal permission to the applicant to retain the quarter at Sonpur. He, therefore, submits that the retention of the quarter by the applicant beyond the period of two months is unauthorised occupation and he is liable to pay damage rent. He submits that, of course, normal rent was being charged but the recovery of damage rent was initiated from the salary of the applicant from the month of March, 2005, effective from the date of his transfer. He, therefore, submits that the impugned orders are quite good and the OA is fit to be dismissed.

4. From the perusal of the order dated 14.05.2010 passed in OA 127 of 2009, it transpires that this Tribunal considered the decision of the Apex Court in the case of **Union of India Vs. Rasila Ram & Ors. [2001(1) ATJ 261]** in which it was held that the Railway authorities are not competent to make any deduction from the salary of an employee by way of penal/damage rent for unauthorised occupation of railway quarter. It was further held that in order to realise such rent, the railway authorities have to take recourse to Section 7 of the Public Premises [Eviction of Unauthorised Occupants] Act, 1971. The Tribunal also considered the decision of the Division Bench of Bombay High Court in the case of N.C.Sharma Vs. Union of India [2004(1) ATJ 481] in which it was held that penal rent for unauthorised occupation of a railway quarter can be recovered only by

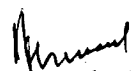


institution of proceedings under Section 7 of the aforesaid Act. Admittedly, no such recourse was taken by the respondents in the present case.

5. I am, therefore, of the view that penal/damage rent was charged by the respondents against the applicant without following the legal procedure and hence, in view of the decision, referred to above, it is not sustainable in law.

6. In the result, the respondents are stopped from charging penal/damage rent from the applicant for the alleged unauthorised occupation of the railway quarter and further, to refund the penal/damage rent already recovered from him within three months from the date of communication of this order.

The OA is, accordingly, disposed of. No costs.


[Anwar Ahmad]/M[J]

skj