

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

OA 838/1999

Mumbai, this the 12th day of June, 2001

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri Ghanshyam M.Gadikar

Age 40 years

Occupation : service in the South Central Railway
as a Travelling Ticket Examiner

working under CTI/C/MRJ

Distt. Kolhapur.

...Applicant.

(By Advocate Ms. S.G.Jangam)

V E R S U S

1. Union of India through
the Chairman of Indian Railways
Rail Bhawan, New Delhi.

2. Divisional Railway Manager
South Central Railway
Hubli, Distt. Hubli.

3. General Railways Manager
South Central Railways
Secunderabad.

...Respondents

(By Advocate Shri V.S.Masurkar)

O R D E R (ORAL)

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (ADMNV.)

In this application the challenge is directed against the recovery of damage/penal rent from the applicant at the rate of Rs. 2000/- per month from his salary.

2. Heard Ms. S.G.Jangam and Shri V.S.Masurkar, learned counsel for the applicant and the respondents respectively.

3. Brief facts as brought out in the application are that the applicant, who was working as a Typist at Pune was provided Railway Quarter. He was transferred on promotion as Ticket Collector to Kolhapur, where he

joined on 14-7-1995. Since he was not provided with any Railway accommodation at Kolhapur, he requested Sr. D.P.O. for retention of his quarter at Pune for a period of nine months from 1-8-1995 to 31-5-1996, which was granted finally from 15-7-1995 to 30-4-1996. Unfortunately thereafter his son developed some illness, which required two visits a month in Mumbai for treatment. He sought permission to retain the quarter for some more time, but the same was not replied. He continued to occupy the place at Mumbai on normal rent. On 1-5-1998 he has vacated the quarter when penal rent of Rs. 2000/- was recovered from his salary and the recovery was @ Rs. 2000/- from 1-5-97 to 1-3-98. This related to the period of alleged unauthorised occupation by the applicant. Learned counsel for the applicant states that this was a highly irregularly, incorrect and arbitrary action resorted to by the department against him as they had not passed any orders specifically rejecting his continued occupation and which had led to his being under the impression that his occupation was authorised. Further no proceedings were also initiated against him for alleged unauthorised occupation. Further they had initiated proceedings for recovery of dues long after his vacating the premises. This also was bad and could not be sustained. The application, therefore, should succeed, is what she pleads.

4. Contesting the above, Shri V.S.Masurkar, learned counsel for the respondents, points out that only point for determination in this case was whether the applicant continued to be in unauthorised occupation of premises originally allotted beyond the permissible period and if so in view of the authority vested in the Govt. in terms

of the order in Rampoojan Vs. Railways (1996 (1) ATJ 541), they have only exercised the correct authority vested and the same cannot be assailed.

5. I have carefully considered the matter and noted that the applicant does not dispute that he was in possession of the occupation allotted to him in pune for nearly two years i.e. from April 1996 upto the date his occupation was regularised to April 1998 when he finally vacated the same premises. Evidently, therefore, for the period occupied by the applicant beyond that period of authorised application, the respondents were correct in recovering the rent at the higher rates. The said order was correct and deserves to be endorsed.

6. The application in the above facts and circumstances is accordingly dismissed. No costs.

7. Operative portion of the order was pronounced in the Court, at the close of oral submissions.

GOVINDAN S. RAMPI
MEMBER (A)

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