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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.509/2001

Dated this the 19th day of July 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Ramlakhan Ramprasad,
Maintainer-Grade-II in
OHE Deptt. under DEE(TD)/Lonavala,
under Executive Control of the
Divisional Railway Manager,
Central Railway, Mumbai CST.

...Applicant

By Advocate Shri K.B.Talreja

vs.

1. The Union of India
through the General Manager,
Central Railway, Mumbai CST.
2. The Divisional Railway Manager,
Central Railway, Mumbai CST.

...Respondents

O R D E R

{Per : Shri S.L.Jain, Member (J)}

The applicant who is a skilled staff of the Central Railway at Lonavala under DEE(TD)/Lonavala was working as Maintainer Grade-II, was transferred from Lonavala to work under DEE(TD) Kurla on 11.3.1994, was in occupation of Railway quarter No. 313, Aagwala Chawl, Lonavala since his working at Lonavala. He was retransferred from Kurla to Lonavala on 23.3.1998. The DEE(TD)/Lonavala vide letter dated 14.10.2000 had asked explanation as to why penal rent should not be deducted. The

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applicant has represented to the DEE(TD)/Lonavala on the ground that he was not asked to vacate the quarter, had there been any order, he would have vacated the same and he has not claimed any House Rent Allowance for the period he was away from Lonavala to Kurla. The applicant's normal rent was recovered at the rate of Rs.59/- p.m. as per rules for the period he was temporarily shifted from Lonavala to Kurla. On the aforesaid facts the applicant has filed this OA. for the reliefs that the respondents be directed not to effect any recoveries of penal rent and refund of penal rent recovered from April, 2001 to date.

2. On perusal of the grounds I find that the applicant claims that any recovery without show cause is penalty which cannot be effected without affording any opportunity to the applicant.

3. I have heard the learned counsel for the applicant and of the considered view that it is not a fit case where even notice to the respondents deserves to be issued as after the transfer of the applicant from Lonavala on 11.3.1994, after two months his possession becomes unauthorised as the permissible period is only two months.

4. AIR 1997 SC 1308 Amitabh Kumar & Anr. vs. Director of Estates & Anr., AIR 1987 SC 808, Union of India & Anr. vs. Wing Commander R.R.Hingorani (Retd.), case of Rampujan clearly lays down that after the permissible period possession of the

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occupant becomes unauthorised and he is liable to pay penal rent. Absence of show cause notice can not be a ground when permissible possession comes to an end and no other ground regarding show cause notice remains to be examined, as there exists none. The recovery of normal rent has no relevance to the matter in dispute.

5. In the result, I do not find any merit worth adjudication in the present OA. OA. deserves to be dismissed without notice to the respondents and is dismissed accordingly.

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(S.L.JAIN)

MEMBER (J)

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