

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

08.01.2014

OA No. 169/2012

Mr. Amit Mathur, Counsel for applicant.
Mr. Y.K. Sharma, Counsel for respondents.

Heard the learned counsel for the parties. The OA is disposed of by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 169/2012

Jaipur, the 08th day of January, 2014

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Yash Pal Saini son of Shri Lekhraj Saini, aged around 54 years, resident of C/o 117, Chaura Rasta, Jaipur. Presently working and posted as Deputy Station Superintendent, Rewari, District Alwar.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its General Manager, North Western Railway, Malviya Nagar, Jaipur.
2. Divisional Railway Manager (Estab.), North Western Railway, Hasanpura, Jaipur.

... Respondents

(By Advocate: Mr. Y.K. Sharma)

ORDER (ORAL)

The brief facts of the OA, as stated by the learned counsel for the applicant, are that the applicant was transferred from Bandikui to Rewari vide order dated 20.09.2010. After his transfer to Rewari, he made a request on 16.10.2010 to the respondents that he may be allowed to retain the Government quarter for two years as his son was pursuing study in Bandikui.

2. The respondents decided the representation of the applicant on 12.01.2012 and allowed him to retain the quarter from 09.10.2010 to 08.12.2010 on normal rent. However, damage was imposed on him from 09.12.2010 to 30.11.2011.

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3. The learned counsel for the applicant submitted that had the respondents rejected his representation dated 16.10.2010 at an early date then he would have vacated the premises early. No notice was issued to the applicant to vacate the quarter or to pay damage rent before 12.01.2012. The applicant had informed the respondents that his son was pursuing study in Bandikui, hence, he may be permitted to retain the Government quarter for two years but his application was rejected only on 12.01.2012 after a lapse of about one year and three months. He further submitted that the quarter has since been vacated by the applicant on 30.11.2011, therefore, the order dated 12.01.2012 (Annexure A/1) may be quashed and set aside.

4. On the other hand, the learned counsel for the respondents submitted that the respondents are entitled to get the damage rent for the Government quarter as per applicable rules.

5. The applicant was transferred from Bandikui to Rewari vide order dated 20.09.2010 and he was relieved on 09.10.2010. The applicant did not submit any application for the retention of the quarter through proper channel, therefore, no action was taken on his application at that time. The application was not submitted through Station Superintendent, Bandikui. The applicant was entitled to retain the Government quarter for a period maximum upto two months. Further permission can be granted on the application to an employee for a period of six months on the reason of education or any disease but on the double payment of applicable rate.

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6. The learned counsel for the respondents admitted that the applicant has vacated the quarter on 30.11.2011.

7. The application for retaining the quarter, submitted by the applicant, was not supported with any documentary proof with regard to education of his son in Saraswati Vidhya Mandir, Bandikui. Therefore, the applicant was allowed to retain the aforesaid quarter on normal rent upto 08.12.2010 and from 09.12.2010 to 30.11.2011, damage rent was imposed upon the applicant.

8. The learned counsel for the respondents further submitted that it was not the duty of the answering respondents to inform the applicant regarding the payment of damage rent because the applicant is also well acquainted with the applicable rules of the Department.

9. The learned counsel for the respondents further submitted that the applicant submitted another application through letter of Secretary of the Union dated 30.07.2011 for retaining the quarter alongwith School Certificate No. ND/217 issued on 29.06.2010 with regard to study of his son in Class XIIth as a regular student during academic session 2010-2012 as said to have been issued by Principal, Navdeep Public Sr. Secondary School, Bandikui. On verification of this certificate from the school authorities, it was found that the certificate was issued for the session 2011-2012. Thus the applicant had committed forgery in the original certificate by changing the academic

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session and class in this certificate. Therefore, there is no illegality in the order dated 12.01.2012 issued by the respondents as it was the duty of the applicant to have obtained the permission from the competent authority if he wanted to continue to retain the quarter. The said quarter was in his possession upto 30.11.2011 without any permission. Therefore, the damage rent imposed on the applicant is in accordance with the rules. Consequently, the OA has no merit and it should be dismissed.

10. The learned counsel for the applicant has also filed a rejoinder.

11. Heard the learned counsel for the parties and perused the documents on record. It is not disputed that the applicant vacated the quarter on 30.11.2011. The respondents in their reply have denied that the applicant made any request for retention of his quarter through proper channel. However, the applicant has placed on record his application which has been forwarded by the Station Superintendent on 16.10.2010 (Annexure A/2) to the Senior DPO. The perusal of letter dated 12.01.2012 (Annexure A/1) also refers to the application of the applicant dated 16.10.2010. This letter no where mentions that the application of the applicant dated 16.10.2010 was not submitted through proper channel. The genuineness of the application of the applicant, which was forwarded by the Station Superintendent at Annexure A/2, has not been disputed by the respondents. Even if for the sake of arguments it is accepted that the applicant had sent the application for retention of his

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quarter directly even then it cannot be the reason for not deciding the representation of the applicant. The applicant could have at least been informed that he should submit his application through proper channel or it could have been sent to the Station Superintendent for his comments but the respondents have not done so. On the contrary, the applicant has placed on record the application which was duly forwarded by the Station Superintendent on 16.10.2010 (Annexure A/2).

12. The learned counsel for the respondents submitted that the applicant has manipulated the original certificate issued by the School in which his son was studying but this fact does not make any difference on the merit of this case because this ground has not been taken for the rejection of the application of the applicant by the respondents vide their letter dated 12.01.2012 (Annexure A/1).

13. I am inclined to agree with the learned counsel for the respondents that the applicant knew about the rules for the retention of the Government quarter and he should have followed it up with the respondents for giving him permission to retain the Government quarter beyond the specified period but the applicant has also not taken any steps to follow it up with the respondents.

14. I have carefully perused the RBE 35/2007 dated 20.04.2007 which provides that an employee who is transferred from one place to another may be allowed to retain the official quarter for a period of two months. In case of educational

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requirement or on the ground of illness, the employee may be permitted to retain the Government quarter for another six months on the payment of double license fee i.e. double of the normal rent. In the case for educational requirement, this period can be extended upto the end of the current academic session. The same Circular provides that beyond this limit, no permission shall be granted and no request for retention shall be accepted.

15. In the facts & circumstances of the present case and in the interest of justice, it is directed that in view of the fact that the application of the applicant was rejected after one year and three months of his application and that the son of the applicant was studying in Bandikui, the applicant may be allowed to retain the accommodation from 09.12.2010 to 30.06.2011 i.e. end of the academic year on payment of double the normal rent as provided in RDE 35/2007 dated 20.04.2007 and thereafter penal rent may be recovered from the applicant.

16. With these directions, the OA is disposed of with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

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