

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This the 20th day of August 2018.

PRESENT:

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Original Application No. 330/01393/2014

Ram Kishan son of Yamuna Prasad, R/o 845 Faithful Ganj, Railway Colony Meerapur Cantt., Kanpur, District Kanpur Nagar.

. . . Applicant

By Adv: Shri B.N. Singh/Shri D.P. Singh/Shri R.S. Yadav

V E R S U S

1. Union of India Division Rail Manager, North Central Railway, Allahabad Division, Allahabad.
2. Assistant Engineer (P.S.), North Central Railway, Railway Station, Kanpur Nagar.
3. Senior Section Engineer (P.S.) North Central Railway, Old Railway Station, Kanpur Nagar.

. . . Respondents

By Adv: Shri Arun Prakash/Shri L.M. Singh

O R D E R

1. The present Original application has been filed by applicants under section 19 of

Administrative Tribunal Act, 1985 seeking the following reliefs:-

"(i) Issue an order or direction to the respondents to bring on record of original application the order deducting penal rent from the salary of the applicant and stopping payment of H.R.A to the O.A and quash the same.

(ii) Issue a further order or direction, to the respondents to decide the representation dated 21.5.2014 within period specified by Hon'ble Tribunal.

(iv) Issue any other order, direction as may deem fit and proper in the circumstances of the case.

(v) Award cost of the O.A".

2. Applicant Ram Kishen has been working under respondent No. 3 at Kanpur since 12.05.2005 and was being paid house rent by respondent No. 3. Since 2006, penal rent is being deducted from his pay and the House Rent Allowance has been stopped without any opportunity of being heard. After his transfer, he handed over the possession of the house to Senior section Engineer and was given a 'No dues Certificate' which he handed over to respondent No. 3 at the time of joining. After joining at Kanpur, no quarter was allotted to him and he was paid house rent by respondent No. 3 from May 2005 to November 2005. Copies of pay slip attached to the file as Annexure- A1. Despite requests, he was not given the reason for stoppage of house

rent allowance and deduction of penal rent from his pay.

3. In reply, respondents have pleaded that applicant is in possession of Railway Quarter no. 189-C, Loco Colony, Aligarh which was allotted to the applicant and at present is under the occupation of applicant's wife Smt. Baby and therefore, penal rent under rules. Due to non-vacation of Railway quarter, HRA was stopped and penal rent being recovered as existing rules.
4. In rejoinder, applicant submitted that the last pay certificate and no due certificate has been deliberately withheld by the respondents at the time of filing the counter affidavit. After his transfer to Kanpur, he had handed over the possession of quarter at Aligarh to Senior Section Engineer, Aligarh and only thereafter he was issued the relieving order and last pay certificate and no dues certificate.
5. Respondent filed a supplementary counter reply wherein it has been averred that a quarter was allotted to the applicant at Aligarh and while posted at Aligarh, applicant had married Smt. Baby as per marriage certificate (Annexure-2). During the transfer of applicant directly from Aligarh there was no information regarding the illegal retention of quarter at Aligarh and when the same came to the knowledge of respondents, the HRA was stopped and penal rent deducted from the salary of applicant as per rules.

6. I have heard and considered the arguments of learned Counsels for the parties and gone through the material on record.

7. From the pleadings of the parties, it is clear that applicant is illegally retaining the quarter allotted to him at Aligarh and his wife Smt. Baby and child are residing in the said quarter. Applicant has denied any relation with his wife Smt. Baby which is belied by the enquiry done by the Railway Official and the documents in the shape of marriage certificate and ration card which shows Smt. Baby to be the wife of applicant.

8. Looking to the facts of the case and stand taken by the applicant and the respondents, it is apparent that the applicant has projected a false picture in his application and approached this forum with unclean hands and therefore, not entitled to any relief from this Tribunal.

9. In view of the facts and circumstances of the case, the O.A. being meritless is dismissed. No order as to costs.

(Rakesh Sagar Jain)

Member (J)

Manish/-