

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 331/00725/2013

This the 25th day of January, 2018

Hon'ble Mr. Justice Dinesh Gupta, Member (J)

Manju Rani wife of late V.K. Pandey aged about 43 years working as Cashier, North Central Railway, Kanpur resident of K 033/8, Nai Basti Benigan, Allahabad.

Applicant

(By Advocate: Shri A.K. Srivastava

Versus

1. Union of India through General Manager, North Central Railway, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central Railway, Allahabad Division, Allahabad.
3. Senior Divisional Finance Manager, North Central Railway, Allahabad Division, Allahabad.
4. Senior Divisional Personnel Officer, North Central Railway, Allahabad Division, Allahabad.

..... Respondents

By Advocate: Sri P. Mathur

O R D E R

The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act with the following reliefs:-

- i) By means of writ of certiorari quash the impugned order dated 12.4.2013 and 1.12.2011/ contained as Annexure No. A-1 to compilation No. 1 of the Original Application.
- ii) Issue any other suitable order in favour of the applicant as deem fit and proper by this Hon'ble Tribunal in the facts and circumstances of the case.
- iii) To award the costs of the application in favour of the applicant.

2. The facts emerging from the O.A. are that the applicant while working as Cashier in the Railway in Allahabad was allotted Quarter No. T-9 Smith Road, Civil Lines, Allahabad w.e.f. 1.4.1999. Applicant was transferred from Allahabad to Tundla on 2.5.2003 and in the year 2005, she was again transferred to Kanpur from Tundla but the applicant continued to retain the said quarter till 2008. She was given notice to vacate the said quarter on 8.8.2008 and on 2.9.2008, she immediately vacated the quarter and handed over the possession. Meanwhile, she was informed vide order dated 4.11.2008 that recovery of Rs.2,24,108/- as damage rent was to be made from her and she should intimate in how many installment how much amount should be deducted in monthly installments. The applicant submitted a representation to the Divisional Cashier, Allahabad on 15.11.2008 and another representation dated

19.11.2009 and subsequently on 4.6.2009. On 1.5.2009, 60% of arrears of revised pay in 6th Pay Commission were taken as recovery for damage rent and balance was to be deducted in monthly installment of Rs. 1578/- per month. Aggrieved by the same, applicant filed O.A. No. 1528/2010 which was allowed by this Tribunal vide order dated 25th January, 2011 and Tribunal quashed the orders dated 4.11.2008 and 1.5.2009 and directed no further recovery is to be made from the salary of the applicant and whatever amount has been recovered from her so far has to be refunded back to her within a period of 2 months. Respondents were also directed to consider the facts given in her representations sympathetically and within a period of two months from the date of receipt of certified copy of this order.

3. Respondents in compliance of order passed by this Tribunal, vide order dated 1.12.2011 passed the impugned order rejecting the representation of the applicant and finding her guilty of the charged for unauthorized holding of railway quarter and punished her for withholding of one increment for the period of one year without cumulative effect and submitted that under para 18 of the Railway Servant (Discipline and Appeal) Rules, 1968, an appeal against the said order is provided.

4. Applicant filed the present O.A. for quashing the order dated 12.4.2013 and 1.12.2011.

5. Respondents have filed counter reply and raised objection that the applicant has not filed any appeal against the said punishment order as provided under the Rules and without exhausting the departmental appeal, filed the present O.A., which is not maintainable.

6. Counsel for applicant submitted that applicant though has filed an appeal against the said order but the same was not in record nor there is any mention about appeal in her O.A. and submitted that he will be satisfied if the appeal is to be decided by the competent authority taking into account sympathetic consideration given by this Tribunal in O.A. No. 1528/2010 and further submitted that if she files appeal against the said order, the respondents will dismiss the same on the ground of limitation.

7. Learned counsel for respondents submitted that any appeal is preferred by the applicant, he has no objection to decide the same.

8. In the facts and circumstances of the case, no useful purpose will be served in keeping this O.A. pending. Accordingly, respondents are directed to decide the appeal of the applicant if available with the Appellate Authority and in case no appeal is available with the Appellate authority, applicant is directed to file an appeal within a period of three weeks along with certified copy of this order passed by this Tribunal and respondents will decide the same treating it to be within time and will decide the same on merit by passing a reasoned and speaking order taking into consideration the order passed by this Tribunal in O.A. No. 1528/2010 with true letter and spirit considering the grounds taken by the applicant in her representation within a period of two months from date of receipt of representation and decision so taken be conveyed to the applicant.

9. With the above observations, O.A. is disposed of. No order as to costs.

(Justice Dinesh Gupta)

Member (J)

HLS/-

