

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : INDORE

Original Application No.201/00179/2017

Indore, this Thursday, the 15th day of March, 2018

HON'BLE MR. UDAY KUMAR VARMA, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Lokesh Saxena, S/o Shri Jagdish Sharan Saxena, Age : 59 years,
Occupation : Service, Station Superintendent, Western Railway,
Indore, R/o 658, Sai Kripa Colony, Near Bombay Hospital, Indore
– 452010 (MP) **-Applicant**

(By Advocate – **Shri C.B. Patne**)

V e r s u s

1. The Union of India through Secretary to the Govt. of India,
Ministry of Railways, Rail Bhawan, New Delhi =- 110001.
2. The General Manager, Western Railway, Churchgate, Mumbai –
400032.
3. The Divisional Railway Manager, Western Railway, Ratlam
Division, Ratlma – 457001 (MP).
4. The Station Manager, Western Railway, Indore District, Indore
452002 (MP) **-Respondents**

(By Advocate –**Shri Surendra Gupta**)

(Date of reserving order : 14.03.2018)

O R D E R

By Uday Kumar Varma, AM.-

The applicant, who is a retired Station Superintendent of
Western Railway, Indore, through this Original Application, is

seeking reimbursement of House Rent Allowance (in short 'HRA') for the period from 01.06.2016 till the date of his retirement, i.e. 28.02.2017 (although in OA he claims that he retired on 29.02.2017, which is not possible because 2017 was not a leap year). He also seeks refund of the lease rent of the Government accommodation deducted from his salary between 01.06.2016 to 31.08.2016 along with interest @ 12% per annum.

2. The case of the applicant is that while he was a Station Superintendent, he vacated the house earmarked for him on 28.05.2016. It is his contention that several other officers were in the queue of allotment for government accommodation and anyone of them could have been allotted this house. As he was not occupying the government accommodation between 01.06.2016 till the date of his retirement, he was entitled to get HRA as per rules for this period. He drew our attention to para 5.5 of the O.A, which states that out of 17 Station Masters/Station Superintendents working at Indore Railway Station, 12 Station Masters/Station Superintendents have no Railway quarter and they are being paid HRA by the Railway administration. He further states that a lot of employees are in queue for allotment of Railway quarters and the quarter vacated by the applicant could have been allotted immediately to the senior most employees in the queue. He further

states that his contention have not been rebutted by the respondents, which shows that respondents could have allotted the Government accommodation occupied by the applicant to any other Railway employees.

3. The respondents have filed written statement in which they have stated that the post of Station Superintendent comes under the essential category and as per the Railway Board Letter No. E (P&A) II-99/HRA-2 dated 16.03.2000 RBE No.46/2000 and Head Quarter letter No. EP 58/0 Vol. III dated 11/17-08/2006, it has been made clear that if a railway employee does not take the railway residence, he is not entitled for House Rent Allowance.

4. In support of their contention, they have enclosed the copy of Railway Board's circular dated 16.03.2000, RBE No.46/2000. The relevant part of the RBE No.46/2000 reads as under:

"In terms of the instructions contained in Board's letter No.PC-67/JCM-2 dated 10.7.1967, and as modified/clarified from time to time, Railway employees who are eligible for Railway accommodation and (i) who do not submit applications for such accommodation; or (ii) who, after submitting applications for such accommodation, refuse to accept accommodation when offered/allotted; or (iii) who, after having accepted such accommodation, surrender it, may be paid House Rent Allowance, if otherwise admissible, on fulfillment of the prescribed conditions. In terms of the instructions contained in Board's letters dated 16.5.88 and 12.7.99, powers to issue sanction for eligibility to House Rent Allowance in the above type of cases stand delegated to the General Managers and other Heads of Organisations, directly controlling allotment of quarters to Railway employees and also to the Divisional Railway Managers/Chief Workshop Managers-in-charge of

*workshops as are controlling housing pools. **This concession is, however, not admissible to employees for whom Railway accommodation is specifically earmarked or to those employees, whose occupation of Railway quarters is essential for easy accessibility during emergencies, efficient discharge of their duties etc.**”*

(emphasis supplied by us)

5. Further, the respondents have referred to letter dated 11/17.08.2006, which states as under:

*“Where the quarters are earmarked for essential staff, if the staff do not occupy the earmarked quarter the **rent should be recovered as a matter of course** and the payment of the house rent, which is otherwise admissible for staying in private houses should not be paid. Such staff, who do not occupy the quarter should not be accorded permission to stay outside the Railway premises. When the earmarked quarter is allotted to a particular essential staff and he does not occupy the same and in case if the staff is not available during accidents/emergencies, such non attendance should be taken up under disciplinary and appeal rules.”*

6. It has been submitted by the respondents that in view of the circular dated 16.03.2000 and the letter dated 11/17.08.2006, they have not paid HRA to the applicant.

7. We have gone through the record and have heard the counsels for rival sides and have given our thoughtful consideration to the entire matter.

8. The rule position in this regard is quite clear. It is an admitted fact that the applicant was a Station Superintendent. It is also admitted fact that Government accommodation, in question,

was earmarked for the post, which the applicant was holding. It is also not disputed that the rules provide that the government employees for whom the government accommodation is earmarked, must stay in the earmarked house. Thus, it is established that the applicant was staying outside and not in his earmarked house between 01.06.2016 till the time of his retirement, which act was in contravention of the rule as he was staying outside, without any valid permission. Therefore, he forfeits his right to claim HRA for the said period. Hence, there does not appear to be any merit in the claim of the applicant. The fact that there were other claimants for the house, in question, does not in any way alter the rule position because the rule does not provide that, in case there were other claimants for house, an earmarked house can be allotted to any other government employees. Further, the applicant has not been able to establish, as mentioned by him in Para 5.5 of O.A that the 12 Station Masters, who were getting HRA, did indeed belong to “essential category” and that despite government accommodation earmarked for them, they were staying outside.

9. In view of the above discussion, we are of the considered view that claim of the applicant, as far as HRA is concerned, is

without any basis, as the rules clearly stipulate that in a situation, as in the case of the applicant, the HRA cannot be paid.

10. With regard to his claim for lease rent deducted from his salary for the period 01.06.2016 to 31.08.2016 is concerned, the respondents, through the circular dated 11/17.08.2006, issued by the General Manager (E), Western Railway, Mumbai, have established that where the quarters are earmarked for essential staff, if the staff do not occupy the earmarked quarter the rent should be recovered as a matter of course. Having gone through this instruction and the fact that these instructions have not been challenged by the applicant, his prayer for refund of the lease rent, for the period from 01.06.2016 to 31.08.2016, also cannot be granted.

11. In conclusion, the O.A seems to be devoid of merit and deserves to be dismissed, and is, accordingly dismissed. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member
am

(Uday Kumar Varma)
Administrative Member