

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
CIRCUIT SITTING : BILASPUR**Original Application No.203/00068/2017**Bilaspur, this Friday, the 05th day of April, 2019**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBERArvind Singh Yadav, S/o Shri Munga Lal Yadav, aged about 43 years, R/o Qr. No. DR-II-9/3, NE Colony, SEC Railways, Bilaspur (CG)
-Applicant**(By Advocate – Ms. Veena Nair)****V e r s u s**

1. Union of India through General Manager, SEC Railways Bilaspur (CG).

2. Divisional Railway Manager, SEC Railways Bilaspur Division, Bilaspur (CG).

3. Chief Personnel Officer, SEC Railways, Bilaspur Division, Bilaspur (CG).

4. Sr. Divisional Personnel Officer, SEC Railways, Bilaspur Division, Bilaspur (CG)
-Respondents**(By Advocate – Shri Vivek Verma)***(Date of reserving order : 25.09.2018)***ORDER****By Navin Tandon, AM.**

The applicant is aggrieved by the action of the respondents in deducting penal rent for his official quarter.

2. The applicant has made the following submissions:

2.1 He was promoted to the post of Loco Pilot Goods vide order dated 16.05.2011 (Annexure A/2) and posted at Brajrajnagar.

2.2 He was in occupation of official quarter at Bilaspur. On transfer, he applied for permission to retain the quarter on account of his wife's health and children's education. He was granted permission for 6 months retention of quarter. On further application, it was extended to end of academic session.

2.3 The applicant sought and obtained personal interview on 05.08.2013 with the Divisional Railway Manager (DRM), wherein he requested to continue occupying the said quarter. DRM in his noting dated 05.08.2013 (Annexure A-3) to Senior Divisional Personnel Officer directed to let the applicant retain quarter at Bilaspur on normal rent.

2.4 Respondents vide letter dated 07.01.2015 (signed on 08.01.2016) (Annexure A/1) advised for deduction of damage rent after 13.04.2012 onwards.

3. The applicant has, therefore, sought for the following reliefs:

“8. RELIEF SOUGHT

Upon these facts and circumstances of the case and on the grounds urged in this application the applicant humbly prays that:-

8.1 This Hon'ble Tribunal be pleased to accept this application.

8.2 That this Tribunal be pleased to call for the entire records of the case pertaining to the applicant for its kind perusal.

8.3 That this Hon'ble Tribunal be pleased to set aside the impugned order/direction contained in A/1 for recovery of penal rent from the applicant amounting to Rs.1,48,960/- and direct the respondent railways to refund the amount already recovered from his salary with interest @ 18% per annum till the date of its refund to the applicant.

8.4 This Hon'ble Tribunal be pleased to direct the respondent to pay the cost and expense of this application.

8.5 That this Hon'ble Tribunal be pleased to grant any other relief that is deemed fit and proper in favour of the applicant in the interest of justice.”

4. The respondents have made the following submission in their reply:

4.1 The applicant has joined the duty at Brijrajnagar on 13.08.2011. He got permission to retain the quarter at Bilaspur from 13.08.2011 to 12.04.2012 on medical ground. In terms of extant rules, no further extension for retention of quarter is allowed and, therefore, the respondents correctly declared the occupation as unauthorised and initiated eviction proceedings, charging damage rent for overstay.

4.2 The applicant was transferred from Brijrajnagar to Bilaspur and he joined his duty on 11.03.2015 and the said Railway quarter has been regularised w.e.f. 11.03.2015. Accordingly, the period from 13.04.2012 to

10.03.2015 was unauthorised occupation and damage rent has been assessed at the rate of Rs.6,207/- per month, which has been started from April, 2016.

5. Heard learned counsel for the parties and perused the pleadings available on record.

6. Learned counsel for the applicant submitted that after he had a personal interview with the DRM on 05.08.2013, it was decided by the DRM to allow the retention of the quarter at normal rent. This order has not been overruled by any superior authority and, therefore, the lower functionaries like Sr. Divisional Personnel Officer (respondent No.4) cannot take any decision otherwise.

6.1 Learned counsel for the applicant also submits that had the applicant known that his quarter would be treated as unauthorised occupation, he would have vacated the quarter and shifted his family at a private accommodation.

7. On the other hand, learned counsel for the respondents argued that the applicant was very well aware that he has been allowed retention of quarter only up to 12.04.2012, which was communicated to him vide order dated 21.02.2012 (Annexure R-2).

7.1 Even his meeting to DRM took place on 05.08.2013, which was after the period up to which the permission was granted to him.

7.2 The applicant had never objected to the said deduction of damage rent. In fact, he had submitted his appeal on 10.05.2016 to recover the damage rent in 60 installments rather than 24 installments.

8. We have considered the rival submissions.

9. The retention of quarter has been stipulated in Para 10.1 of the Establishment Rule No.10/2008, which reads as under:

“10.1 Permanent Transfer:

- (a) A railway employee on transfer from one station to another which necessitates change of residence may be permitted to retain the railway accommodation at the former station of posting for a period of 2 months on payment of normal rent or single flat rate of license fee/ rent. On request by the employee, on educational or sickness account the period of retention of railway accommodation may be extended for a further period of 6 months on payment of special license fee, i.e. double the flat rate of license fee/rent. Further extension beyond the aforesaid period may be granted on educational ground only to cover the current academic session on payment of special license fee.

Beyond the permitted/permissible limits, however, no further extension will be allowed on any ground whatsoever. Therefore, no request or representation on this score shall be entertained. For all occupations beyond the permitted period, immediate

action should be taken to cancel the allotment, declare the occupation as unauthorized and initiate eviction proceedings, charging damage rent for the over-stay.”

9.1 As per these rules, the applicant was allowed to retain the quarter for two months (13.08.2011 to 12.10.2011) at normal rent and thereafter 13.10.2011 to 12.04.2012 at double the rent on medical grounds (Annexure R/2).

10. Even though it appears that DRM has asked the Sr. Divisional Personnel Officer (respondent No.4) to let the applicant retain the quarter on Bilaspur at normal rent (Annexure A-3), we find that no such orders have been communicated to the applicant. In the absence of any such office order, the notings on a piece of paper or on a file, cannot be considered as an authority to retain the quarter beyond the permissible time.

11. We find that the respondents have interpreted the retention of quarters as per their prevalent rules. Therefore, we do not find any irregularity or illegality in the action taken by the respondents.

12. Accordingly, the O.A is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member
am/-

(Navin Tandon)
Administrative Member