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CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH KOLKATA

O.A.No.350/01305/2015

Date of Order : 09-09-2015

Present : **Hon'ble Mr Justice G. Rajasuria, Judicial Member**
Hon'ble Ms Jaya Das Gupta, Administrative Member

Shri Pradip Kumar Roy

.....Applicant

-Versus-

Union of India & Ors. (Eastern Railway)

.....Respondents

For the applicants : Mr H. S. Chakraborty, Counsel
For the respondents : Mr A. K. Banerjee, Counsel

ORDER (ORAL)

JUSTICE G. RAJASURIA, JM,

Heard Both. This O.A has been filed seeking the following reliefs :

- a) A direction do issue upon the respondents to refund the damage rent to amounting to Rs.49781/- immediately.
- b) A direction do issue upon the respondents to deduct the house rent as has been deducted in other cases, with regard to over stay;

2. Learned counsel for the applicant placing reliance on the Annexures appended to this O.A would develop his argument to the effect that his client's wife was ill for which prolonged treatment was taken, and therefore the applicant could not vacate the quarters after his retirement within the prescribed time. Even though he gave letter seeking permission, to the Senior Divisional Personnel Officer (Annexure-A5), that was not responded to and subsequently the Railway authorities imposed damage rent on the applicant and compelled him to pay Rs.49781/- and accordingly recovered also from his DCRG. Hence this application.

3. Learned counsel for the respondents would stress upon the reasons found set out in Annexure-A-9 dated 24.11.2014 and submit that the proper application was not given to the appropriate authority seeking permission to occupy the quarters beyond the period prescribed and as such there was nothing wrong in the Annexure-A-9.

4. The point for consideration is as to whether the applicant was justified in seeking the permission as contained in the Annexure A5, even though there is no evidence on record to show that he applied properly to the appropriate authority for obtaining such permission with necessary documents.

5. A mere running of the eyes over the Annexures would reveal that by Annexure A-5 he petitioned the Senior Divisional Personnel Officer seeking permission by stating that his wife was ill and hence he could not vacate the quarters immediately and he sought for 8 months' time to vacate the quarters. Now it appears that the Senior Divisional Personnel Officer was not the competent authority. However, the expectation of the applicant was that the Senior DPO should have forwarded his application to the appropriate authority. Be that as it may, the applicant did not adhere to the proper procedure for getting permission for his extended stay in the quarters.

5. In *stricto sensu* as of now, no case has been made out by the applicant for granting relief. Out of his non adherence to the procedure he was made to pay damage rent. Another important fact which should be taken note of, is that if really the applicant had a genuine case and failed to highlight it before the appropriate authority, then it is at the discretion of the authority to consider the granting of ex-post facto permission provided the applicant could establish and make out a case of his own supported by appropriate medical certificate/evidence. We make it clear that we do not mandate the respondents to pass any ex-post facto order but it is the discretion of the authority to do so and that too if the applicant could establish his case with evidence. As such the applicant is at liberty to approach the respondents with proper medical documents and it is for the respondents authority to pass suitable order in the matter.

With the above observations, the O.A is disposed of. No costs.

(JAYA DAS GUPTA)
ADMINISTRATIVE MEMBER

(G. RAJASURIA)
JUDICIAL MEMBER