
(2021) 02 CAT CK 0005

In the Central Administrative Tribunal

Case No : Original Application No. 1220 Of 2020

Capt. J.P. Singh, Group 'A'

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 02-02-2021

Acts Referred:

Citation : (2021) 02 CAT CK 0005

Hon'ble Judges : Aradhana Johri, Member (A)

Bench : Single Bench

Advocate : Dr. K.S. Chauhan, Krishan Kant Sharma

Final Decision : Dismissed

Judgement

Aradhana Johri, Member (A)

1. The applicant voluntarily retired from railway service on 28.02.2017 and was re-engaged as Member (Technical), Railway Claims Tribunal

[hereinafter referred to as RCT], Ghaziabad. He was in occupation of Northern Railway House no. 245/3-B, Officersâ?? Enclave, P.K. Road, New

Delhi and was permitted retention of the same for the period w.e.f. 28.02.2017. He superannuated from the post of Member (Technical), RCT on

04.02.2019 and on his request for retention of the said accommodation, he was permitted retention w.e.f. 05.02.2019 to 04.06.2019 on payment of

licence fee. Thereafter he requested again for a further retention of accommodation from 05.06.2019 to 4.10.2019 on medical grounds, on payment of

special licence fee, which request was also acceded to by the railway authorities, the Respondents. A further request for retention of house was made

by the applicant upon which the respondents got him examined by a medical

board which, vide letter dated 28.11.2019, did not recommend retention in favour of the applicant, stating that his condition did not justify the need for retention on medical grounds. Accordingly, the applicant was informed by the respondents vide letter dated 05.12.2019. He was advised to vacate the house, the imposition of damage rent and rate of damage rent prevailing at that time was also advised to him vide letter dated 03.03.2020. However, he was allowed retention of house on account of "COVID Lockdown" for the period w.e.f. 24.03.2020 to 15.07.2020 on payment of normal licence fee. This benefit was extended to the applicant vide letter dated 24.07.2020 by which he was also advised the rate of rent/damage etc. that was to be deposited for the unauthorized period and the "COVID Lockdown" retention period. Vide letter dated 05.08.2020, the applicant informed the respondents that he would like to vacate the house in the second or third week but positively by the end of the month, and he may be informed the amount of rent to be paid at normal rate from October, 2019 to August, 2020. This was replied to by the respondents through their letter no.103-G/13/Retn./09/17/Capt.J.P.Singh of August, 2020 in which it was clearly intimated to the applicant that he was not eligible for retention of the accommodation till 31.10.2020 and that he was already in unauthorized occupation. The amount of rent payable from 05.10.2019 to 15.07.2020, which had been indicated vide letter dated 24.07.2020 of the respondents, was reiterated to be Rs.8,06,405/- with further damage rent w.e.f. 16.07.2020 till the date of vacation.

2. The applicant then filed this OA and vacated the premises after orders dated 03.09.2020 of this Tribunal. He also deposited Rs.5,00,000/- as tentative rent as per the said orders of this Tribunal.

3. It is the contention of the applicant that he is entitled to retain the said accommodation for a further period of one year as per Railway Board's circular dated 16.03.2004. He has claimed that his back problem is such that he was not in a condition to vacate the premises and on medical grounds he should have been allowed further retention. He has filed various reports of OPD of several hospitals between 2010 and 2019 wherein some treatment has been recommended. He has further stated that the damage rent of Rs.8,06,405/- upto 2020 is very high and exorbitant and he should be charged normal rent.

4. The respondents have denied the claims of the applicant and have stated that whatever concessions could be given were liberally given to the applicant and he was allowed two retentions of four months each from 05.02.2019 to 04.06.2019 and then another four months from 05.06.2019 to 04.10.2019. Furthermore, he was charged only normal licence fee @ Rs.1757/- per month for four months of "COVID Lockdown" period even though he was an unauthorized occupant. They have stated that any extension beyond the period already given to the applicant could be allowed only after recommendation of the Medical Board. Accordingly, the applicant was examined before a Medical Board under the Chairmanship of CMD/NRCH/NDLS, which Medical Board stated that his condition did not justify the need for retention of railway quarter on medical grounds.

Accordingly, rent/damage rent at telescopic rates in line with norms for general pool houses of the Directorate of Estate as per Railway Board's

letter No.F(X)I-99/II/I dated 14.08.2018, is being charged. They have also stated that in both the letters permitting retention, which were issued by the

respondents on 17.05.2019 and 26.08.2019, it was clearly mentioned that revised damage rent will be payable at telescopic rate for unauthorized

occupation. They have also stated that in a similar case Hon'ble High Court of Delhi has rejected a petition, copy of which is at Annexure -XXIII.

However, no Annexure-XXIII has been filed along with the counter reply of the respondents.

5. Heard Sh. K.S. Chauhan, learned counsel for the applicant and Sh. Krishan Kant Sharma, learned counsel for the respondents and perused the record.

6. At the outset, it is necessary to examine the policy pertaining to this matter. This policy was laid down vide RBE No.60/2004, Circular No.E(G)99

QR1-16 dated 16.03.2004. As per the said policy, the following guidelines are laid down:-

3. The following procedure/guidelines shall be followed in processing cases for grant of retention of accommodation over and above

the permissible period as laid down in the general instructions:-

(i) The individual Railway employee who seeks retention of Railway accommodation beyond the period permissible under the general policy

on medical grounds, may apply to the quarter controlling authority along with

certificate from the Railway Medical Authorities. The quarter

controlling authority shall process the request for the personal approval of the General Manager.

(ii) If the General Manager is satisfied that there are adequate and reasonable grounds for permitting further retention, he may make his

recommendations to the Railway Board with a speaking order for grant of this dispensation.

(iii) The retention of Railway accommodation beyond the permissible period on medical grounds may be granted by the competent authority

for a period not exceeding one year in any case.

(iv) The benefit of retention of Railway accommodation shall be admissible in the case of severe illness of Railway employee himself/herself

or any member of the employee's family as defined in the Railway Servants (Pass) Rules.

(v) "Severe illness" in such cases means illness of the nature of acute debilitating disease, which requires hospitalization and/or

constant medical supervision to the Railway employee or any member his/her family, which must be duly certified by the concerned Chief

Medical Director of the Railway recommending such retention of Railway accommodation.

(vi) In the event of grant of permission for retention of Railway accommodation at the previous place of posting beyond the period provided

for in the relevant instructions, the employee in whose favour retention as above has been permitted, shall not be entitled to draw House

Rent Allowance at his new place of posting.

(vii) The allottee will have to vacate the premises on or before the expiry of permitted period, and in the event of occupation of quarter after

the permitted period of retention, it shall be treated as an unauthorized occupation and (damage) rent will be charged from him/her.

7. From the above it is clear that after the two retention periods allowed, a further period of one year could be granted only in case of severe illness

which was to be certified by the Chief Medical Director of the Railways, recommending such retention of railway accommodation. It is to be noted

that this period is a ceiling beyond which retention cannot be allowed, and is not an entitlement. In the said circular it is also clearly mentioned that in

the event of occupation of quarter after the permitted period of retention, it shall be treated as an unauthorized occupation and (damage) rent will be charged from him/her.

8. The Medical Board examined the applicant and stated that the condition of the applicant did not justify the need for retention of the railway quarter on medical grounds. As per their report dated 5.11.2019, the Medical Board made the following recommendation:-

CONCLUSION

In view of the above, members of the medical board are of the opinion that Shri Jai Prakash Singh is not suffering from any disabling, debilitating or serious illness that requires frequent admissions or hospitalization. He is a case of chronic muscular backache and has not

been hospitalized in the last 2 years for the same or any other illness. His general condition is good and he can be managed by conservative

measures like medicines & physiotherapy as and when he has symptoms. In view of Railway Board's letter No. E(G)99 QR1-16 dated

01.09.2005 his condition does not justify a need for the retention of Railway Quarter on Medical grounds.

In light of the Medical Board's opinion, the applicant could not be allowed further retention in view of the policy circular.

9. The applicant has not challenged any policy circular by which the damages were fixed nor has he cited any policy circular by which a normal rent

should be taken from him. He has not even stated what should be the rent charged from him as per policy but simply said that the rent being charged

is high and exorbitant. He has nowhere challenged the actual amount or stated what exactly it should be as per rules, whereas the respondents

have clearly stated that the amount they have indicated is purely as per the policy of the Railway Board in accordance with the instructions of the

Department of Urban Development, Directorate of Estate, which applies to all general pool houses allotted to all Central Government employees. The

claim of the applicant that he was not aware of the damages and did not receive the letter dated 24.07.2020, also carries no water since he was fully

aware that damages would be charged for unauthorized occupation beyond the approved retention period. This was indicated in every letter of

retention sent to the applicant. The very rule which provided for retention on

medical grounds itself indicated that there was a damage rent payable.

Therefore, the plea of ignorance cannot be taken. The applicant was a senior officer and well placed to know the rules regarding retention and the damages for unauthorized occupation.

10. The respondents have also very fairly given him the benefit of reduced rate and charged only nominal and normal licence fee of Rs.1757/- per

month for the "COVID Lockdown" period of approximately four months which would be applicable to allottees who were in authorized

possession of the accommodation even though he was an unauthorized occupant.

11. It is surprising that the applicant has stated in the OA that he sought further six months extension because he could not arrange a suitable

accommodation. Since the date of superannuation is known well in advance and is reached on attaining the age of 62, it certainly does not come as a

surprise. Therefore, this cannot be accepted as a ground for leniency of any sort. The applicant retired voluntarily from a senior position in the

Railways and enjoyed a post retirement assignment of a high level, therefore, he cannot legitimately claim that he is not in a position to pay the damage

rent. It is also to be kept in mind that unauthorized occupation of government premises by a person leads to the denial of right of a legitimate claimant

to the said accommodation.

12. In light of the above, this OA has no merit and is dismissed. No orders as to costs.