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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9306/2016**

UNION OF INDIA & ORS Petitioners

Through: **Mr.Ashok Singh, Adv.**

versus

RAM SINGH Respondent

Through: **Adv. (appearance not given)**

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% **07.10.2016**

We are not inclined to interfere with the impugned order dated 05.02.2015 passed by the Principal Bench of the Central Administrative Tribunal (CAT) directing refund of Rs.1,10,000/- which was deducted from the salary of Ram Singh, the respondent.

Allowing the original application of Ram Singh, the Tribunal has noticed the factual matrix. Ram Singh, who was in occupation of the staff quarter at Bijwasan, was transferred to Garhi Harsaru, Gurgaon on 13.07.2005, but was subsequently re-transferred to Bijwasan vide order dated 01.04.2006. This was after Ram Singh had made representations against his transfer to Garhi Harsaru, District Gurgaon.

Even after on re-transfer to Bijwasan, Ram Singh was not taken on duty and was sent back to Gurgaon with the direction that the matter had been referred to the authority (ADEN/DE) and till the decision of the said authority, Ram Singh would not be spared from

the place of earlier posting at Gurgaon.

Ram Singh again made a number of representations and finally, on 20.01.2008, he was given no objection for transfer to Bijwasan.

The Tribunal in the impugned order has rightly observed that:-

“I have heard the learned counsel for the applicant Sh. Yogesh Sharma and the learned counsel for the respondents Sh. A.K. Srivastava. Admittedly, the applicant was posted in Gang No.6 at Bijwasan, New Delhi and he was transferred to Gang No.8 Garhi Harsaru, Gurgaon vide order dated 13.07.2005. On his request, he was transferred back to Bijwasan vide Respondents order dated 01.04.2006 and accordingly he was spared by SSE (P.Way) on 07.04.2006 but the SSE (P.Way), Delhi did not take him on duty on the ground that a decision in the matter had to be taken by the ADEN/DE. Therefore, the order dated 07.04.2006 sparing him from SSE (P.Way) was withheld. Finally, he got his promotion as a Keyman and got his transfer back to Bijwasan in October, 2010. The applicant has been occupying the accommodation allotted to him in Bijwasan all these years. Even after he was transferred to Gang No.8, Garhi Harsaru, Gurgaon, the accommodation allotted to him has never been cancelled in his name and he has also not been asked to vacate the accommodation at any time. Admittedly, the Gang No.6 and 8 are situated within a distance of 13 to 15 kms. Both are under the same Delhi Division. Therefore, charging the penal rent from the applicant cannot be accepted. The Respondents have also not produced any rules to show that on such transfers from one Gang to another in the same Division, the employee concerned has to vacate the accommodation. I am, therefore, of the considered view that the action of the Respondents charging the penal from the Applicant for retention of the accommodation allotted to him while he was posted at Gang No.8 at Garhi

Harsaru is arbitrary and illegal. Consequently, I direct the Respondents to refund the amount of penal rent recovered from his pay after adjusting the normal licence fee payable by him, as early as possible but in any case within a period of 2 months from the date of receipt of a copy of this order. As prayed by him, the electrical charges payable by him for the aforesaid period shall also be regulated on payment of normal charges. There shall be no order as to costs”.

The aforesaid facts reveal the peculiar and special features of the present case. The total amount to be refunded is Rs.1,10,000/-.

In the factual matrix and noticing the amount involved, we are not inclined to interfere with the impugned order. The writ petition is dismissed.

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 07, 2016

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