

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6091 of 2018

-
1. The Union Of India through the General Manager, East Central Railways, Hajipur, District- Vaishali (Bihar).
 2. The General Manager(Personnel), East Central Railways, Hajipur, District- Vaishali (Bihar).
 3. The Divisional Railway Manager, East Central Railways, Samastipur (Bihar).
 4. The Divisional Railway Manager (Personnel), East Central Railways, Samastipur(Bihar).
 5. The Senior Divisional Mechanical Engineer (Diesel), East Central Railways, Samastipur(Bihar).
 6. The Senior Divisional Financial Manager, East Central Railways, Samastipur(Bihar).
 7. The Assistant Audit officer, C/o The Senior Divisional Financial Manager, East Central Railways, Samastipur(Bihar).

... .. Petitioner/s

Versus

Most. Parawati Devi W/o late Deep Narayan Choudhary Resident of Village- Bansokothi, Post- Digha Ghat, District- Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhinay Raj
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

3 10-04-2018 Heard learned counsel for the Railways, who has preferred the present writ application against the order, dated 28.07.2017, whereby and whereunder the Central Administrative Tribunal, Patna Bench, Patna has allowed the O. A. No. 757 of 2015 and quashed the decision of the Railways to recover penal rent to the extent of Rs. 1,87,492 /- from the salary and post-retiral dues of the erstwhile employee, who is



said to be dead and the widow moved the CAT for a declaration that such recovery is not permissible in the given facts and circumstances.

The Tribunal after hearing the parties recorded the following findings in paragraph nos. 7 to 10:

“7. In the matter before the Hon'ble Patna High Court the facts were quite different. The employee was transferred from Gomoh to Barkakana. It was not the case that he was paid salary from the original station. There was a specific period of permission and extension. Therefore, it was undisputed that the stay beyond that period was unauthorized. In the present case, it is an admitted position that the applicant continued to get his salary from the original place of posting, i.e., Samastipur even though he was posted at Jhanjharpur / Banmankhi. The authorities had full knowledge of the Railway quarter at Samastipur which the applicant was occupying. For four years no objection was ever raised by the authorities. Rather normal rent was being deducted voluntarily. In this background, it was reasonable for the applicant to assume that his case was similar to Ram Nandan Prasad who was formally allowed the facility to retain the quarter at Samastipur.

8. The document submitted by the Railways themselves at Annexure – R/5



shows that as per GM's instructions, Senior DME, Diesel and Senior DME, C & W, Samastipur were asked to call for options from the staff for temporary transfer to Jhanjharpur for a period of 2-3 years on the condition that they will be allowed to retain their houses at their original place of posting.

9. From the aforesaid documents, it is quite clear that staff were sent to Jhanjharpur where no accommodation was available and consciously the salary was being paid to the staff at Samastipur and they were allowed to continue at their quarters at Samastipur. Suddenly, in the case of the applicant a note by some Audit Officer after four years has triggered this recovery without any intimation to the applicant.

10. In conclusion, the OA is allowed with a direction to the respondents to refund the deduction made from the deceased employee's salary and DCRG on account of the aforesaid damage rent and pay the amount to the applicant within three months of receipt of a copy of this order. For any delay after that the respondents shall pay interest @ 8 % till the date of payment. No order as to costs."

Nothing has been brought on record contrary to the findings recorded by the Tribunal that the employee was not allowed any accommodation at his transferred place of posting,



his salary was still drawn from Samastipur instead of Jhanjharpur. Since the arrangement seems to have been temporary one, because of exigency of services, the Tribunal does not seem to be in error in allowing the O.A. and quashing the steps taken for recovery.

The Railways are being duly unfair for reasons best known to them. The Court is not inclined to interfere with the impugned order of the CAT. The direction issued in the concluding part of the order must be now carried out within a period of four weeks or else the widow will earn interest at the rate of 8 per cent till the payment is made.

Writ Application has no merit. It is dismissed, accordingly.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

skm/-

U			
---	--	--	--

