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

+ **W.P.(C) 3822/2020**

INDERJEET SINGH

..... Petitioner

Through: Mr. Ravi Bharuka and Mr. Shashank
S. Mangal, Advs.

Versus

RAILWAY PROTECTION SPECIAL FORCE

& ANR.

..... Respondents

Through: Mr. Jagjit Singh, Sr. Counsel with
Mr. Preet Singh, Adv. for respondents
with Sub Inspector Dharshan Lal and
Mr. Milan Singh, for RPF.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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30.06.2020

VIA VIDEO CONFERENCING]

CM No.13692/2020 (for exemption)

1. Allowed, subject to just exceptions and as per the extant rules.
2. The application is disposed of.

W.P.(C) 3822/2020 & CM No.13691/2020 (for interim relief).

3. The petitioner, employed as an Assistant Sub-Inspector (Driver) with the respondents Railway Protection Special Force, has filed this petition impugning the demand vide letter dated 22nd May, 2020 on him of Rs.8,85,371/- on account of telescopic penal charges for retention of Railway Quarter No.215/A, Type-III, 6th Battalion, Railway Protection Special Force, Dayabasti, Delhi between September, 2018 to December, 2019. Alternatively, waiver of the demand is sought.
4. We have heard the counsel for the petitioner.

5. The petitioner, during his posting at Delhi, was allotted the aforesaid accommodation. The petitioner, pursuant to transfer dated 2nd October, 2015 from Delhi to Gorakhpur, joined duty at Gorakhpur on 12th October, 2015. The petitioner, though required to vacate the aforesaid accommodation on account of being transferred out of Delhi, did not vacate the accommodation and continued to retain the same. Two reasons are pleaded for retaining the accommodation - (i) that the petitioner's wife was undergoing treatment for asthma in Central Hospital, Delhi; and, (ii) that the petitioner's son was pursuing graduation from Delhi. On request of the petitioner, the petitioner was allowed to retain the accommodation till 17th June, 2016 subject to paying double the licence fee from 1st December, 2015 to 17th June, 2016. The petitioner however failed to vacate the accommodation thereafter also and a sum of Rs.11,597/- per month was deducted from the salary of the petitioner on account of unauthorised occupation of the aforesaid accommodation from 18th June, 2016 onwards.

6. It is the case of the petitioner that he was vide letter dated 16th January, 2020 informed of recovery of Rs.8,96,968/- against him for unauthorised retention of the aforementioned Railway quarter and which amount was ordered to be deducted from the salary of the petitioner.

7. The challenge to the aforesaid demand is on the sole ground of the petitioner having not been communicated of any amount higher than Rs.11,597/- per month being due from him and the demand of Rs.8,96,968/- being arbitrary for the said reason. It is pleaded that immediately upon being informed of higher damage charges, the petitioner vacated the accommodation on 31st January, 2020 and represented to the respondents against the demand, and which representation has been rejected.

8. As far as the sole ground pleaded by the petitioner for impugning the demand, of the petitioner being not informed of it, is concerned, we have drawn attention of the counsel for the petitioner to Annexure P-5, being a communication dated 13th April, 2017 of the respondents to the petitioner, informing the petitioner of liability of damage rent of Rs.11,597/- per month and also informing the petitioner that any other order received from the authorities would also be followed. In our opinion, the aforesaid communication strikes at the very root of the ground urged, of the petitioner having not been informed of recovery of any higher amount from him. Even otherwise, the counsel for the petitioner is unable to answer, under which right was the petitioner required to be notified of the said charges.

9. Else, it appears that if the Rules lay down the damage charges for unauthorised occupation of particular accommodation and/or the recovery is in accordance with the Rules, in the absence of any challenge to the Rules, no challenge thereto can be made. The reasons for not vacating the accommodation are not such which require any leniency to be shown to the petitioner. The disease of asthma from which the wife of the petitioner is stated to be suffering is not such which could not have been treated at Gorakhpur. Similarly, education of the son of the petitioner is a reason common to all those in transferable jobs and does not entitle retention of accommodation at the station from which the employee has been transferred out.

10. It is also not as if the recovery now sought of additional damages levied w.e.f. 2018 till unauthorised retention on 31st January, 2020, is barred by time.

11. At this stage, the counsel for the petitioner seeks to withdraw the

petition with liberty to file afresh after studying the law.

12. The counsel for the petitioner being young and raw, though has been heard, but is granted such liberty.

13. Accordingly, the petition is dismissed as withdrawn with liberty to file again on the same cause of action. However a copy of this order be filed with fresh proceedings, if any filed.

No costs.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

JUNE 30, 2020
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