



W.P.(MD)No.8632 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.8632 of 2024
and
WMP(MD)Nos.7899 & 7900 of 2024

A.Muthuvel

.. Petitioner

Vs.

1. The Workshop Personnel Officer,
The Golden Rock Railway Workshop,
Ponmalai,
Tiruchirappalli..

2. The Chief Workshop Manager,
The Golden Rock Railway Workshop,
Ponmalai,
Tiruchirappalli..

3. The Sr.Divisional Security Commissioner,
Railway Protection Force,
Administration Office,
Southern Railways,
Tiruchirappalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for



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the records relating to the impugned order in Letter No.WPO/GOC//LR.No.CC/Damage Rent/A.Muthuvel/ASIPF dated 06/11/2023 issued by the 1st respondent and quash the same as illegal and pass a direction to the 1st respondent that not to recover the damage rent from the salary of the petitioner.

For Petitioner : Mr.K.Murugan

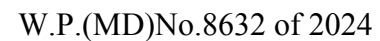
For Respondents : Mr.K.Govindarajan
Deputy Solicitor General of India

ORDER

This Writ Petition has been filed seeking to quash the letter of the 1st respondent in Letter No.WPO/GOC//LR.No.CC/Damage Rent/A.Muthuvel/ASIPF dated 06.11.2023 and consequential direction to the 1st respondent that not to recover the damage rent from the salary of the petitioner.

2. By consent of both the parties, this writ petition is taken up for final disposal.

3. Heard Mr.K.Murugan, learned counsel for the petitioner and Mr.K.Govindarajan, learned Deputy Solicitor General of India for the respondents.



5. Mr.K.Murugan, learned counsel for the petitioner submitted that the petitioner happened to be in the continuous occupation of the quarters only in view of the educational purpose of his children and he has also given representation in this regard. But without considering the same, the impugned order has been passed.

6. Mr.K.Govindarajan, learned Deputy Solicitor General of India for the respondents submitted that as per Master Circular No.49 Rule 10.1 even on educational grounds, an employee cannot seek extension beyond the academic year. Since the petitioner has been in occupation of the quarters even beyond the academic year which fall



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after his transfer the impugned order has been issued. The relevant portion in this regard is extracted as below:

10.1 Permanent Transfer

- a) A Railway employee on transfer from one station to another which necessitates change of residence may be permitted to retain the railway accommodation at the former station of posting for a period of two months on payment of normal rent or single flat rate of licence fee/rent. On request by the employee, on educational or sickness account, the period of retention of railway accommodation may be extended for a further period of six months on payment of special licence fee, i.e. double the flat rate of licence fee/rent. Further extension beyond the aforesaid period may be granted on educational ground only to cover the current academic session on payment of special licence fee. Beyond the permitted/permissible limits, however, no further extension will be allowed on any ground whatsoever. Therefore, no request or representation on this score shall be entertained. For all occupations beyond the permitted period, immediate action should be taken to cancel the allotment, declare the occupation as unauthorised and initiate eviction proceedings, charging damage rent for the over-stay.
- b) Where the request made for retention of Railway quarter is on grounds of sickness of self or a dependent member of the family of the railway employee, he/she will be required to produce the requisite Medical Certificate from the authorized Railway Medical Officer for the purpose.
- c) In the event of transfer during the mid-school/college academic session, the permission to be granted by the competent authority for retention of railway accommodation in terms of item (a) above will be subject to his/her production of the necessary certificates from the concerned school/college authority.
(No. E(G)2000 QR 1-23 dated 01.06.2001 – RBE No. 100/2001)
- d) The retention on medical grounds is required to be supported by a medical certificate from an authorised Railway Doctor. In cases where the employee or his/her family member etc. is receiving treatment from other streams of medicines like Homeopathy, Ayurved, Unani, etc. and the employee wishes to avail retention of Railway quarter on transfer/retirement etc. on medical grounds (subject to eligibility as per policy instructions), he/she may apply in writing to the Railway Medical Officer concerned, requesting for a Medical Certificate with details of sickness and subject himself/herself for medical examination. The Railway Medical Officer on examination of the sick person may issue a Medical Certificate with his/her recommendations, if any, as per his/her assessment.
(E(G) 2002 QR 1-7 dated 13.11.2002)
- e) On educational ground - definition of "end of academic/scholastic session".
 - (i) In the event of permanent transfer, retention of Railway accommodation is allowed on educational ground to cover the current academic session only (i.e. end of the academic / scholastic session) plus 15 days. The end of academic / scholastic session shall, in this case, mean "last paper of annual examination".
(No. E(G) 2006 QR 1-14 dated 05.04.2011 – RBE No. 43/2011)



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(II) Clarification on definition of end of academic/scholastic session.

- (a) It is further clarified that current academic session refers to annual academic course ending with annual examination and not till the results thereof are announced. It does not also mean that the total duration of any course of study; for example, in respect of three years degree course, the current academic session means first or second or third year of course, as the case may be, and not the total three years. As such quarter retention is allowed up to last paper of annual examination for the current academic session/year (not the last paper of next academic year/session) plus 15 days.
(E(G) 2006 QR 1-14 dated. 04.01.2012)

- (b) An employee will have to furnish proper certificates from the recognised institution. Certificates for attending any part-time course or any course not recognised by the Education Department of the state is not acceptable for the purpose of retention of Railway quarter on educational ground.
(Ref: E(G)85 QR 1-9 dated 15/1/90 & E(G)2006 QR1-14(A) dated 20/11/2006)

- (c) If the ward of the Railway employee is studying in class 9th or class 11th, retention of railway accommodation may be allowed on educational ground to cover the current academic session and also the next academic session (examination) of the ward till the end of the academic/scholastic session of class 10th or 12th respectively plus 15 days.
(Ref : No 2017/TransCell/ProcessReform/Estt dated 29.12.2017)

7. However, the impugned order has been passed without issuing any notice to the petitioner and giving him an opportunity to make his submissions. On similar grounds, similarly placed persons who have filed W.P(MD)No.24922 of 2018 have got an order effect directing to reconsider the representation of the petitioner. The relevant part of the order is extracted hereunder:



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"9. Though this Court has found that the impugned order cannot be sustained for a direct levy of the penal rent, without a prior notice, there is no justification on the part of the petitioners herein, to continue the possession of their respective quarters, after they have been transferred from ICF to other Chennai divisions. Hence, the petitioners are required to forthwith vacate their respective quarters, which would also enable the respondents to allot the quarters to other staffs of the ICF, who have been waiting for their allotment.

10. For all the forgoing reasons, the impugned order dated 11.09.2018, in so far as relates to the petitioners herein are concerned, stands quashed. However, this order will be subject to the condition that these petitioners, who have not already vacated the quarters, shall vacate their respective quarters within a period of 2 months from the date of receipt of a copy of this order. It is further made clear that, in case the petitioners do not vacate their respective quarters within the aforesaid period of 2 months, the respondents would be at liberty to recover the "penal rent" as mentioned in the impugned order, dated 11.09.2018, without reference to the present order of this Court, and also claim further "penal rent" till the date of their actual vacating the quarters. This Writ Petitions stands ordered accordingly. The connected miscellaneous petition is closed. No costs."



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8. Whatever may be the case, without giving notice if the penal rent is imposed that would go against the principle of natural justice. Hence, the impugned order is liable to be set aside. Accordingly, the impugned order in Letter No.WPO/GOC//LR.No.CC/Damage Rent/A.Muthuvel/ASIPF dated 06/11/2023 issued by the 1st respondent is set aside. The first respondent is directed to issue show cause notice to the petitioner and give him an opportunity to make his submission and pass order afresh taking into consideration the earlier representation of the petitioner and also the explanation submitted by him to the show cause and pass orders on its own merits and in accordance with law.

9. With the above direction this writ petition is **disposed of**. No Costs. Consequently, connected miscellaneous petitions are closed.

05.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no

PJL



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R.N.MANJULA, J.

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