

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

CCP 382/93 in
OA 1641/92

New Delhi this the 23rd Day of December, 1993.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Sh. Ajay Kumar Singh,
S/o Sh. Kamal Kant,
Ex-Substitute Loco Cleaner,
under Loco Foreman,
Moradabad(UP).

Petitioner

(By advocate Sh. R.K. Kamal)

versus

Sh. A.K. Marhotra,
Divisional Railway Manager,
Northern Railways,
Moradabad(UP)

Sh. Tilak Singh,
Fitter,
Qr.No.L-86-5,
Railway Quarters,
Moradabad(UP).

Respondents

(Respondent No.1 through Sh. Rajesh, Advocate &
Respondent No.2 in person.

ORDER 90RAL)

(delivered by Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman)

The complaint in this application is that the interim order passed on 30.6.92 in O.A. No.1641/92 has not been complied with by the respondents. The interim order as material to the present controversy is;-

".....In the meanwhile, the respondents are directed not to dispossess the applicant from the Railway Quarter No.L-86-5, subject to the liability of the applicant to pay licence fee etc. in accordance with the relevant rules."

A counter-affidavit has been filed on behalf of the respondents. In it it is admitted that on 19.11.1992 the Loco Foreman, Moradabad passed an order of

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allotment with respect to the accommodation which was subject matter of the afore-said O.A. The order of allotment as material is:-

".....Type-I Quarter No.L-86-J, rent Rs.20 P.M. which is under unauthorised occupation of Shri Ajay Kumar Singh, Ex-Cleaner is hereby allotted to Shri Tilak Singh, Fitter/Art in addition to his type-I Quarter No.-86-R as per his request on the condition that he will get Quarter No. L-86-J vacated as his own efforts from Sh. Ajai Kumar Singh. The previous orders of allotment of Type-II Quarter No.H-286-B issued vide this Office Order No.-15-91/Qr. dated nil are hereby cancelled."

It is also an admitted position that as per order dated 19.11.92 Sh. Tilak Singh took possession of the accommodation in question. Sh. Tilak Singh is present before us, as the petitioner was directed to implead him as one of the respondents in the CCP. He states that he took possession of the accommodation in question as the same was lying vacant and unlocked. He further states that during the contempt proceedings he has vacated the accommodation in question. Therefore, the accommodation in question is vacant at the moment.

A reading of the interim order dated 30.6.1992 indicates that this Tribunal clearly intended to pass a conditional order. In substance the Tribunal directed that Sh. Ajay Kumar Singh shall not be dispossessed from the accommodation in question provided he pays the usual licence fee. One of the defence in the contempt petition is that since Sh. Ajay Kumar Singh had not paid the licence fee, the interim order became inoperative and did not protect him from dispossession. Such an

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understanding of the interim order is plausible. Therefore, it cannot be said that the respondents willfully disobeyed the interim order of this Tribunal. In these circumstances, the contempt proceedings have to be dropped.

The defence taken in the counter-affidavit is that the Loco Foreman, Moradabad was not aware of the order passed by the Tribunal on 30.06.1992. We are not prepared to accept this version. It is to be presumed that the Loco Foreman was aware of the said order.

The respondents are directed to restore accommodation in question to Sh. Ajay Kumar Singh provided he pays the entire arrears which are payable by him in 6 equal monthly instalments. However, Sh. Ajay Kumar Singh will pay the current rent/licence fee from month to month.

There is some dispute regarding the date from which the liability of Sh. Ajay Kumar Singh to pay the rent/licence fee ceased. We make it clear that the respondents will not realise any rent/licence fee for the accommodation in question from Sh. Ajay Kumar Singh for the period during which they have realised rent/licence fee from Sh. Tilak Singh.

With these observations C.C.P. is disposed of finally. No costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)

Member(A)

S.K. Dhaon
(S.K. Dhaon)

Vice-Chairman