

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

O.A.No. 671/1998

Allahabad this the 24th day of May 2002

Hon'ble Mrs. Meera Chhibber, Member (J)

B.P.Singh son of Shri Bharat Singh
aged about 39 years R/o B-5, Door
Darshan T.V. Colony, Badaun Road
Lal Phatak, Bareilly, Presently
is working as a A.E. (Shift Duty)
in Door Darshan Station Bareilly
Badaun Road, Lal Phatak, Bareilly(U.P). ... Applicant

(By Advocate: Shri R.C. Pathak)

Versus

1. Union of India through the
Secretary Information and
Broad Casting, Ministry of
Broadcasting Government of
India, New Delhi.
2. The Director General,
Directorate General's
Door Darshan, Mandi House
New Delhi.
3. The Station Director,
Door Darshan, Badaun Road,
Lal Phatak, Bareilly (U.P)
4. The Station Engineer,
Door Darshan, Badaun Road,
Lal Phatak, Bareilly (U.P)
5. The Senior Administrative Officer,
Door Darshan, Badaun Road,
Lal Phatak, Bareilly (U.P). Respondents


(By Advocate: Shri A.Sthalekar)

J U D G M E N T

Hon'ble Mrs. Meera Chhibber, Member(J)

By this OA the applicant has sought following relief(s):



- (i) Issue a suitable order or direction by way of Mandamus commanding the respondent no.3 i.e. the Station Director Door Darshan Kendra Badaun Road Lal Phatak, Bareilly to stop recovery of Penal Rent Rs. 78482/- for Quarter no.C-14 TV Colony Door Darshan Kendra Badaun Road TV Colony Bareilly declaring the applicant unauthorised occupant since 17.10.95 to 29.1.98 (27 months and 14 days) as the same is required to be deducted in the 23 instalment of Rs. 2983/- PM Rs. 126/- PM as Licence Fee Rs. 2857/- PM. The aforesaid order is illegal, unlawful and bad in law and liable to be quashed and set aside. The aforesaid order dated 28.5.98 is marked as Annexure A-1 enclosed with the petition.
- (ii) Issue suitable order or direction by way of Mandamus commanding the respondents specially respondent no.3 not to discriminate in declaring unauthorised occupants of Govt. Accommodation in similar circumstances as the respondent no.5 was not declared unauthorised occupants but the applicant was declared unauthorised occupants of Govt. Accommodation and no penal rent recovery was ordered by the respondent no.3 for respondent no.3 as such it is violation of Article 14 of Indian Constitution. Therefore, the aforesaid order dated 28.5.98 marked as Annexure A-1 liable to be quashed and set aside.
- (iii) Issued suitable order or direction to the respondent no.3 by way of Mandamus commanding the respondent no.3 not to give effect of order dated 28.5.98 as order for recovery of Penal Rent Rs.2857/-PM in 23 instalment for the period of 17.10.95 to 29.1.98 i.e. for 27 month 14 days from the pay of applicant for the month of June 98 being the aforesaid order illegal and unlawful.
- (iv) Issue suitable order or direction to the respondent no.3 by way of Mandamus commanding the respondent no.3 not to harass and humiliate the applicant and his family members by using authority and power beyond his jurisdiction. As the respondent no.3 ordered of allotment to lower shift
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duty staff for allotment of higher quater or revised scale, who were already in possession of Govt. Quarter by ordering to the applicant to vacate Quarter No.C-14 for allotment of the same. Quarter to the lower shift duty staff or revised scale authoritise though the applicant is being a shift duty staff was correctly ordered of allotment of Quarter no. C-14 TV Colony Door Darshan Kendra Badaun Road Lal Phatak Bareilly (U.P).

(v) Issue suitable order or direction, the Hon'ble Tribunal as deem fit necessary and proper in the circumstances of the case.

(vi) To award the cost of the application to the applicant.

2. The applicant's grievance in this case is that even though he was working as Assistant Engineer with Doordarshan in shift duty which is apparent from page 15 of rejoinder wherein applicant was shown to be working in shift duty yet he has been declared as unauthorised occupant in duty shift

On  and a penal rent has been charged against him from the period from 17.10.95 to 29.1.98 amounting to Rs. 78482/-.

He has relied on page 50 wherein the respondents have themselves admitted that Assistant Engineers are working in shifts and the matter was already taken up with the authorities that Assistant Engineers should be declared as shift duty staff so that they may be allotted the shift duty quarters and finally the respondents have vide their order dated 21.5.2001 have clarified that with the approval of Prasar Bharati Board it has been decided to declare Assistant Engineers working in AIR and Doordarshan as shift duty staff for purpose of allotment of residential staff quarters in



terms of AIR (Allotment of Residential Quarters) Rules 1983 amended in 1987, thus he has stated that since the matter was already pending with the authorities there was no justification to charge the penal rent from applicant specially when in similar circumstance the headquarter had directed the station director to withdraw the order of recovery of penal rent against Shri Singh which is apparent from Annexure A-20. The applicant has thus stated that ~~his~~ he cannot be discriminated against and in his case also the said order could have been withdrawn since the matter with regard to declaring the Assistant Engineer as shift duty staff was already pending before the authorities atleast his representation should have been sent to the Headquarter for reconsideration.

3. The respondents have contested the claim of applicant by stating that as per the letter dated 20.10.93 the categories which came within the shift duty staff was clearly specified but Assistant Engineers were not included in the category of ~~shift~~ shift duty staff (page 28) that is why the applicant at the time of request for allotment of shift pool accommodation had given an undertaking that he may be allotted the type C quarter from shift pool since they were lying vacant and he would vacate the same as and when some eligible person from shift duty staff applies for same.

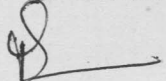
The undertaking is annexed as Annexure CA-I. Thus the respondents have stated that he ^{ought to have} ~~must~~ honoured his own undertaking, as ~~and~~ when Shri Krishnanand a Sr. Technician who

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belonged to shift duty staff applied for type C accommodation as per his entitlement, the applicant was asked to vacate the quarter within 15 days failing which penal rent shall be charged. This letter was written on 17.10.95 followed by number of reminders which are all annexed as Annexure CA-II but since applicant did not vacate the said quarter, he was ultimately declared as unauthorised occupant and a penal rent of Rs.78482/- was charged against the applicant for the period from 17.10.98 to 29.1.98 which is absolutely valid and in accordance with law. They have thus submitted that OA may be dismissed.

4. I have heard both the counsel and perused the pleadings as well. I would agree with the respondents that once an undertaking is given by the employee he is bound by same and he must honour it, otherwise the purpose for ^{giving} undertaking becomes defeated, but in the present case the short point is when the issue with regard to treating the Assistant Engineers as shift duty staff was already pending with the authorities and ultimately they have been declared also as shift duty staff whether it was justified on the part of respondent to still charge penal rent against applicant when in similar circumstance the similar order in respect of another person Shri B.P. Singh was withdrawn.

5. In my considered opinion since the respondents ultimately did declare the Assistant Engineers as shift duty staff it would be in the interest of justice to remit this matter to



of the matter
the higher authorities for reconsideration[^] in the light of above observations. Let the applicant give a detailed representation mentioning all the grounds within a period of two weeks to the Headquarters who should consider the same and pass a reasoned and speaking order within three months thereafter. Till such time no recovery shall be made from the applicant and whatever decision is taken by the higher authorities shall be communicated to the applicant who should abide by the said order.

6. With the above directions the OA is disposed of with no order as to costs.



(Meera Chhibber)
Member (J)

vtc.