

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ALLAHABAD THIS THE 27th DAY OF MARCH, 2006

ORIGINAL APPLICATION NO.582 OF 2003

HON'BLE MR. K. B. S. RAJAN, MEMBER-A

Harish Chandra Sharma,
Son of Shri Khali Ram Sharma,
Presently working as Helper Khalasi,
Grade I, North Central Railway,
Lalitpur.

.Applicant

By Advocate: Shri S. K. Om

Versus

1. Union of India, Through its General Manager,
North Central Railway,
Allahabad.
2. Senior Divisional Personnel Officer,
North Central Railway,
Jhansi.
3. Senior Section Engineer (TD),
North Central Railway,
Lalitpur.

.Respondents

By Advocate: Shri S. K. Anwar

O R D E R

By K.B. S. Rajan, Member-J

The applicant was employed as Yard Khalasi at Jhansi w.e.f. 12.3.98. He was entitled to a Railway Quarter. On 27.4.2000 he was offered Quarter No.96/5 but according to the applicant, since the same was not vacant and was allegedly occupied by some anti social element, on 13.6.00 he had requested for having the quarter got vacated and hand over possession thereof. This was however

not done. Around that time as another quarter RB 112/1 originally allotted to one Shri Preetam Singh was found vacant, the applicant by a communication dated 7.7.2000 requested for formal allotment of that Railway Quarter. However, this also not having been acted upon, the applicant had to reside in a private accommodation till his posting ^{out of} ~~at~~ Jhansi. Accordingly, he was also paid the house rent allowance during the entire period of stay at Jhansi.

2. The applicant was transferred from Jhansi to Lalitpur on 5.12.01 and he had accordingly joined the new place of posting.

3. On 10.1.03 the respondents have issued a recovery order, specifying an amount of Rs.35,712/- allegedly on account of damage rent for quarter no.112/1 for the period from 17.2.2000 to 31.1.2002. The applicant has agitated against this order of recovery. By an interim order the respondents were restrained from affecting any recovery.

4. The respondents have contested the case. According to them, a High Power Committee was constituted for making physical verification/check of occupation of various quarters and on such an inspection conducted on 8.12.01 they could find Quarter No. 112/1 being in the unauthorized

occupation of the applicant. The meter reading in respect of this quarter was also reported to contain the name of Shri Harish Kumar (according to the respondents wrongly named, instead of Shri Harish Chandra the applicant). Thus, according to the respondents, it is clear that the applicant was in unauthorized occupation of Quarter No.112/1.

5. Rejoinder has been filed by the applicant wherein he has by and enlarge reiterated his stand as in the OA.

6. Arguments were heard and documents perused. The counsel for the applicant contends that neither there is an allotment letter in the name of the applicant nor did he occupy the quarter in question. It is not exactly specified as to how the respondents have named the applicant as the unauthorized holder of the said accommodation in pursuance of the alleged the High Power Committee inspection stated to have been conducted on 8.12.01 when the applicant had already moved from Jhansi on 5.12.01.

7. Per contra the counsel for the respondents had submitted that the High Power Committee being constituted by a number of responsible officers the report furnished by it couldn't be marginalized.

And according to the report in column no.7 against Quarter No. 112/1 it is the name of the applicant

that has been recorded. The meter report corroborates at least part of the name as at the material point of time no one named Harish Kumar was employed in the Enquiry Office and as such an ~~encroachment~~ ^{error &} has been committed in the meter reading by indicating Harish Kumar instead of Harish Chandra.

8. It is not in dispute that the applicant was allotted Quarter No. 96/5 by the respondents. Request was made on 07.07.2000 for allotment of RB 112/1, which originally stood allotted to one Shri Preetam Singh. This has also not been disputed. Again the fact that the applicant was transferred on 5.12.01 from Jhansi was also not disputed. The inspection report nowhere reflects that the unauthorized occupation by the applicant was from 17.2.2000. In case, the applicant was in occupation of RB 112/1 from 17.2.2000 there is no scope at all either for the respondents to allot 96/5 on 27.4.2000 or for the applicant to make a request to allot 112/1 on 7.7.2000. The high power committee report is so sketchy and incomplete in as much as it does not reflect who were the occupants and who were contacted. The report also does not show as to whether the house was vacant at the time of inspection report though the term vacant finds place against the column "Encroachment". It is to be pointed out here that in respect of the number of items entry against the column encroachment is '-'

or 'Encro'. In addition, in some cases it has been indicted as 'vacant'.

9. In view of the above it is clear that the applicant was not at any time in occupation of the accommodation 112/1. There is no basis to claim from the applicant the recovery of damage rent.

10. In view of the above the O.A is allowed. The impugned order dated 10.1.03 is hereby quashed and set aside. The respondents are directed to refund, if any, amount has been recovered on this score from the applicant. No costs.



Member (J)

/ns/