

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1094 OF 2003
ALLAHABAD THIS THE 12TH DAY OF SEPTEMBER, 2003

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

Dr. Jitendra Kumar Singh,
S/o Late Jugul Kishore Singh,
R/o Bungalow No.3,
Inspectors Colony Gaya,
Bihar.

.....Applicant

(By Advocate Shri S.K. Dey & Shri S.K. Mishra)

Versus

1. Union of India,
through the General Manager,
E.C. Railway,
Hajipur, Bihar.

2. The Divisional Railway Manager,
East Central Railway,
Mughalsarai,
District - Ghandauli.

.....Respondents

(By Advocate Shri K.P. Singh)

O R D E R

In this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has prayed for quashing the impugned orders dated 23.06.2003 and 29.07.2003 with direction to the respondents to refund the amount already deducted.

2. The facts, in brief, giving rise to this O.A. are that the applicant is working in the respondent's establishment, Gaya since 29.03.1982 and is now working as Senior



Divisional Medical Officer, East Central Railway, Gaya. The applicant was staying in Quater No.7A/D/Type-III even though presently he is entitled for Type V Bungalow. As per applicant, as approved by Medical Superintendent, he occupied Bungalow on 25.02.2003 and vacated Quater No.7-A. On 26.02.2003 the applicant gave the information to the authorities concerned regarding his occupying Bungalow no.3.

3. The grievance of the applicant is that though the monthly rent in respect of Bungalow no.3 was being deducted from the pay of the applicant yet the order dated 23.06.2003 has been passed directing the applicant to vacate Bungalow no.3 within seven days. Not only this by impugned order dated 29.07.2003 an amount of Rs.26,836/- has been ordered to be recovered as damage rent per month. Aggrieved by the action of the respondents the applicant filed representation in respect of impugned order dated 23.06.2003 on 28.06.2003 before respondent no.2 and also another representation dated 06.08.03 in regard to impugned order dated 29.07.2003.

4. Shri S.K. Dey, learned counsel for the applicant submitted that the action of the respondents in ordering for recovery of damage rent is arbitrary and illegal because once the respondents were deducting the normal rent from the pay of the applicant regularly after March 2003 there is no reason to justify their action of ordering for recovery of damage rent.


5. The learned counsel for the applicant also argued that the applicant is entitled for Type V Bungalow and, therefore, since it was being vacated and there was order of the Medical Supdt. he occupied the same. The learned counsel argued-
that MS^h

is the head of the Medical Division and the applicant simply acted in good faith.

6. The learned counsel for the applicant finally submitted that recovery of damage rent to the tune of Rs.26,836/-p.m. is going to hit the family financially. The learned counsel for the applicant submitted that as per the impugned order dated 23.06.2003 the applicant has been ordered to vacate Bungalow no.3 and go back and occupy Quarter no.7-A. The same stands allotted to one Shri Sanjay Kumar, JE/Gaya by order dated 24.03.2003 and the same has been occupied. Obviously once the Quarter no.7-A is already occupied and is not vacant, the applicant is not in a position to vacate the Bungalow no.3 and move^{high} the old quarter. In his representation dated 28.06.2003 the applicant has raised this issue and in my considered opinion, this aspect has to be kept in view before deciding the representation of the applicant dated 28.06.2003 (Annexure A-10) and 06.08.2003 (Annexure A-11).

7. Resisting the claim of the applicant Shri K.P. Singh learned counsel for the respondents submitted that MS is not competent to allot the Quarter/Bungalow, it is the DRM who is competent to allot the quarters. The applicant has committed grave irregularity, for ^{which} ~~this~~ he is himself responsible.

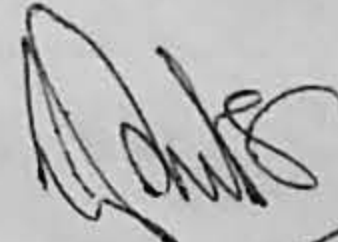
8. In the facts and circumstances, I am of the view that the ends of justice shall better be served if the representations of the applicant dated 28.06.2003 (Annexure-A9) and 06.08.2003 (Annexure A-11) are decided by respondent no.2



i.e., Divisional Railway Manager, East Central Railway, Mughalsarai by a reasoned and speaking order within a specified time.

9. In view of the aforesaid the O.A. is finally disposed of at admission stage itself with direction to respondent no.2 to decide the representations of the applicant dated 28.06.2003 and 06.08.2003 by a reasoned and speaking order within a period of three months from the date of communication of this order. It is also provided that till the representation is decided no damage rent shall be recovered from the applicant. While deciding the representation of the applicant it has to be borne in mind by respondent no.2 that since the applicant is not in a position to pay monthly rent of Rs.26836/- per month ^{and his representation is not favourably decided} he is allotted a suitable accommodation, keeping in view his entitlement, so that the applicant is in a position to shift from the present accommodation.

10. There shall be no order as to costs.



Member-A

/Neelan/