

S/No

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 26/2007

CORAM :

**HON'BLE MR. JUSTICE A.K.YOG, MEMBER (J)
HON'BLE MR. R.R. BHANDARI, MEMBER (A)**

25TH April, 2008.

Madan Lal Solanki S/o Shri Kistoor Chandji Solanki aged about 47 years, Resident of C/o Mitha Lal Gothi, Village and Post Office Babra, District Pali, presently working on the post of Sub Post Master at Post Office of Village Babra, District Pali (Rajasthan).

.....Applicant.

By Mr. S.K. Malik, Advocate, for applicant.

Versus

- 1-Union of India through its Secretary to the Government, Ministry of Communication, Dak Bhawan, New Delhi.
- 2-The Chief Post Master General, Rajasthan Circle, Jaipur (Rajasthan).
- 3-The Post Master General, Rajasthan Western Region, Jodhpur (Raj.)
- 4-Superintendent of Post Offices, Pali Division, Pali (Raj.)
- 5-Superintendent of Post Offices, Sirohi Division, Sirohi, (Raj.).

.....Respondents.

By Mr. Mahendra Godara, Adv. holding brief of
Mr. Vineet Kumar Mathur, Adv., for respondents.

**ORDER (ORAL)
PER JUSTICE A.K.YOG**

Heard learned counsel for the Applicant and the Respondents in this O.A. and also perused the pleadings on record as well as the documents annexed thereto.

Madan Lal Solanki, applicant, is an employee of Postal Department, he was allotted a residential Quarter Type - II in the Postal Colony, Sheoganj where he lived with his family; he earned wrath of one Shri Bhopal Singh, Care taker of the Colony who was senior to him because of nuisance / irritation caused by his 'Dog'. It

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appears that other residents of the colony were also dis-satisfied and objected for it; Bhopal Singh felt annoyed and harbored ill-will against the applicant who made complaint against him. Bhopal Singh - out of animosity - lodged 'false-report' in the Police Station concerned but later, on investigation - the Police has found them 'false' and submitted 'Final-Report', (Annexure A-8 to the Rejoinder), the applicant had even made written complaint dated December 9th, 2001 / Annex. A-5 mentioning that he (Bhopal Singh) had illegally and unauthorisedly for vested interest, let-out Quarter to a lady (Smt. Durga Devi and Smt. Gyarasi Devi) and Bhopal Singh, however, succeeded in getting cancelled 'allotment of residential quarter' in favour of the applicant vide order dated December 26, 2001/Annex.A-3. There is, interestingly, nothing on record to show that any other resident of the colony ever complained against the applicant on any score.

'Allotment of residential quarter' in favour of the applicant, was cancelled on the ground that as per report of the Care Taker, he was guilty of 'mis-behaving' with other residents of the colony without disclosing specific instance/or particular complaint.



The applicant immediately submitted Objections / Representations dated 31.12.2001 / Annex.A-6 before the Post Master General, Jodhpur, giving aforesaid facts. The applicant sent reminders but, no action was taken and finally, applicant vacated the Quarter allotted to him in November 2002. The Representations / objections filed by the applicant on 31.12.2001 shows that the applicant, from the very beginning, categorically requested for initiating 'detailed-inquiry' to find-out the truth and his victimisation at the hands of Care-taker (Bhopal Singh) to restore his allotment or otherwise allow him some

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time to vacant the quarter in question after 'examination' of his children were over. Respondents, according to the applicant, ignored his representations / objections with no "excuse".

The defence of respondents contained in para 4,5,6, 7 and 8 of their counter-reply which are reproduced below :-

"4. That on 11.12.2001, a report was received from one Shri Bhopal Singh Gehlot, SPM, Shivganj, and Care Taker of the Colony, in his complaint dated 9.12.2001, it was stated that the applicant along with his family members had removed the fencing of the Colony by cutting the wires and at objection by the Care Taker, the applicant quarreled with him and man-handled the care taker.

5. That therefore, on receipt of the complaint, a complaint inspector was appointed to inquire into the matter and he vide his report dated 18.12.2001 opined the applicant was responsible for damage of the Government property and also for misbehaviour and quarrel with the care taker, therefore, in accordance with the terms and conditions of the allotment as laid down in para 2 of the order of allotment, his allotment was infringed.

6. That thereafter, the allotment of the said quarter was terminated vide order dated 26.12.2001 for misconduct and misbehaviour.

7. That the inquiry report was submitted in this regard to the Regional Office vide letter dated 6.5.2002. That despite termination of allotment of his quarter vide order dated 26.12.2001, the applicant did not vacate the said quarter in compliance of the order passed by the competent authority. Hence, a license fee with penal rent as provided under the rules were recovered from the salary of the applicant of the month of March, 2002 to May, 2003 and total recovery affected was amounting to Rs. 24680/-.

8. That the applicant being aggrieved of this recovery submitted an representation to the Regional Office and the competent authority vide its order dated 24.2.2006 rejected his representation and the applicant was informed accordingly vide letter dated 27.2.2006."



The respondents have not enclosed alleged inquiry report dated 6.5.2002 (referred to in aforesquoted para No.7) for perusal. An adverse inference is to be drawn against them. Further, there is no plea that the applicant was ever informed of said 'Inquiry' or decision on his representations. The aforesquoted para/s shows that the applicant had filed complaint against Bhopal Singh, Caretaker on

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9.12.2001 whereas, Bhopal Singh filed complaint on 11.12.2001 against the applicant as an after-thought.

Considering the request made by the applicant in his representation dated 31.12.2001/Annex.A-6, in the back-ground of admitted facts of this case, required prompt action / decision on the part of the department but the then authorities failed.

At this stage, Mr. Mahendra Godara, Advocate, on behalf of the respondents requested for time to bring on record by tomorrow. This request, at this stage, cannot be appreciated / allowed. It shall mean – adjournment of the hearing for indefinite. If report is now filed the applicant shall require time to rebut it. This means reversing the procedure apart from wastage of valuable time of Tribunal/Public Money.. Respondents cannot be allowed to take advantage of their own fault. Otherwise also, we find that this inquiry report has no relevance inasmuch as, according to respondents themselves, they did not decide the Representations/objections filed by the applicant.



We are at 'loss' and unable to appreciate as to how the 'authorities' justify their highly belated 'impugned order' rejecting prayer of the applicant (contained in his representation dated 31.12.2001) to allow him to stay till the examination of his children were over. The respondents have interestingly, in the facts of the instant case, nowhere taken stand that the request of the applicant to occupy the quarter for a short time (as prayed by the applicant) was denied/rejected. Moreover, the authorities failed to take pains to ascertain the facts stated by the applicant in his representation dated 31.12.2001 which clearly showed that Bhopal Singh, Caretaker was ill-disposed towards the applicant and his complaint suffered from 'mala

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fide'. In fact, action should have been taken against said Bhopal Singh – Care-taker, if the complaint of the applicant was based on incorrect facts. One can only speculate and guess – as to why the higher – authorities – been 'soft' and 'favourable' to Bhopal Singh.

In the entirety of the circumstances noted above, i.e. request of the applicant to retain the quarter for short time (till the end of academic session of his children) was bonafide / genuine. The complaint/s in the police lodged by Bhopal Singh, against applicant, were found to be fictitious and that the Representation(s)/objection(s) filed by the applicant were never decided by a reasoned order, we find that the cancellation of allotment order was arbitrary, illegal and not justified.

The learned counsel for the applicant informs that the Quarter in question has been vacated long back and there is no claim for re-allotment of said residential quarter. The impugned order claiming 'Penal Rent' from the applicant for a few months, is uncalled for.

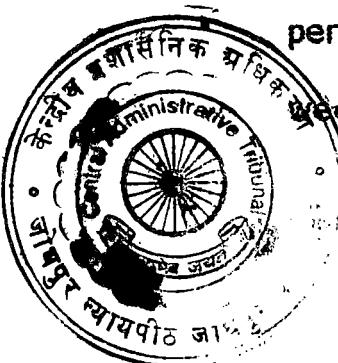
The impugned order cannot be sustained since no opportunity afforded to the applicant while holding alleged 'inquiry' as claimed by the respondents. The impugned order is, therefore, liable to be set aside.

Consequently, the impugned order dated 12.4.2006/Annex.A-1, order dated 24.2.2006/Annex.A-2 and the Memorandum dated 26.12.2001/Annex.A-3, to the O.A. are quashed and it is provided that any recovery from the applicant over and above 'normal rent' for occupying 'Residential Quarter' in question under above impugned order/s, shall be refunded along with simple interest at the rate of 6%.



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per annum, forthwith by the respondents to the applicant within eight weeks from the date of receipt of a certified copy of this order.



O.A. allowed.

No costs.

R.R.Bhandari
(R.R.Bhandari)
Member (A)

A.K.Yog
(A.K.Yog)
Member (J)

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to my presence on 15/11/14
under the supervision of
section officer () as per
order dated 19/8/2014

Section officer (Record)

Re copy of order


S.K. Mallik
07/09/08


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