

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 549/05

Jabalpur, this the 24th day of November, 2005.

C O R A M

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN

Smt.Masnisha Kasture
W/o Shri Vijay Kasture
C/o Usha Girls Hostel
MP Zone I
Bhopal (MP). Applicant.

(By applicant Smt. S.Menon)

Versus

1. Union of India
Through Comptroller & Auditor General
of India, Bahadur Shah Zafar Marg
New Delhi.
2. Principal Accountant General (Audit-I)
Madhya Pradesh
Motimahal
Gwalior
3. Accountant General (Works & Receipt Audit)
43, Arera Hills
Hoshangabad Road
Bhopal (MP).
4. Meera Swaroop
Accountant General (Works & Receipt Audit)
53, Arera Hills, Hoshangabad Road
Bhopal (MP).
5. Deputy Accountant General
(Works and Receipt Audit)
53, Arera Hills, Hoshangabad Road
Bhopal.
6. Government of India
Central Public Works Department
Through Allotment Officer and



Assistant Engineer, Sub Division No.1

CPWD, Indore.

Respondents.

(By advocate Shri P. Shankaran)

ORDER (ORAL)

By M.P.Singh, Vice Chairman

By filing this OA, the applicant has claimed the following reliefs:

- (i) Set aside the memorandum dated 18.9.2004 and declare the action taken by the respondents in pursuance thereof as ab-initio void.
- (ii) To direct respondent Accountant General to release the salary for the period with effect from July 2003 to January 2004 amounting to Rs.52,000/- as also for the period December 2004 to April 2005 amounting to Rs.58,000 along with interest @ 9% per annum.
- (iii) To direct respondents to award compensation of Rs.50,000/- for the mental agony suffered by the applicant at the hands of the respondents.

2. The brief facts of the case are that the applicant is presently working as Senior Auditor under respondent No.2. She was transferred from Indore to Bhopal vide order dated 20.6.2003 (Annexure R-1). When the order dated 20.6.2003 was passed, she proceeded on leave and remained upto December 2003 as per details given in Para 4 of the reply. Applicant reported for duty at Bhopal on 2.12.2003. She continued to occupy government accommodation allotted to her at Indore and vacated only on 23.11.2004. Respondents charged a normal license fee for 2 months from 19.6.2003 to 18.8.2003 i.e. Rs.394/-. Thereafter they charged damage rent for 13 months and 13 days from 19.8.03 to 30.9.04 i.e. Rs.57,772/-. Respondents thus recovered a total amount of Rs. 58,166/- for retaining the government accommodation by the applicant at Indore. ² ^{pt.3c-9-04} Respondents also recovered damage rent for the period 1st October, 2004 to 23.11.2004. Applicant made a number of representations requesting the respondents to charge only normal license fee from her.

[Signature]

However, they have not granted the relief and, therefore, the applicant has approached this Tribunal with this OA.

3. Respondents in their reply have contended that the applicant who joined the office of Accountant General (Audit II) MO, Bhopal as Auditor on 17.2.1986 was transferred to Concurrent Audit Party, Central Excise, Indore at her own request. The Concurrent Audit Party at Indore was disbanded in October 1999. Thus there was no justification for retaining the applicant in the Concurrent Audit Party at Indore. Therefore she was transferred from Indore to Bhopal vide order dated 20.6.2003 (Annexure R1). According to respondents, though the transfer order was communicated to her through phone and in writing immediately, she did not report for duty at Bhopal but remained absent from duty by way of sending leave application from Indore or even without any intimation as per details given in para 4 of the reply. Applicant had been in occupation of Government accommodation at Indore allotted by respondent No.6. When she did not vacate the quarter, respondent No.6 ordered recovery of damage rent from her and accordingly recovered Rs.65,697 as per letter dated 3.3.2005 (Annexure R3). This amount of damage rent had been charged by the respondents as per SR 317-B-22 since the recovery was made as per rules for retaining the government accommodation beyond the normal period for which she was entitled. Hence the OA is without any merit and is liable to be dismissed.

4. Heard learned counsel for both parties. Learned counsel of the applicant submitted that though the order of transfer was passed by the respondents on 20.6.2003 but the relieving order was not received by her till December 2003 as she was on leave. According to her, the respondents had issued notice under the Public Premises (Eviction of Unauthorized Occupants) Act 1971. However, the respondents had not followed the procedure as prescribed under Section 7 of the aforesaid Act and had not granted an opportunity of hearing, which is against the principles of natural justice. The amount of damage rent recovered from her pay is quite excessive and she is only a low paid



employee. In view of this, since the respondents have not followed the procedure and have not given an opportunity of hearing to the applicant before making the recovery of damage rent, the same be quashed and set aside.

5. I have given careful consideration to the rival contentions. It is an admitted fact that the applicant who joined the office of the Accountant General (Audit II), Bhopal as Auditor in 1986 was transferred to Concurrent Audit Party, Central Excise, Indore. When the Concurrent Audit Party was disbanded, in October 1999, she was again transferred to Bhopal vide order dated 20.6.2003. Even though the transfer order was communicated to her through phone and in writing, she did not report for duty at Bhopal but remained absent from duty and she had reported for duty at Bhopal only on 2.12.2003. Although the respondents issued notice to the applicant for taking action against her under the Public Premises (Eviction of Unauthorized Occupants) Act, but they have ultimately charged the damage rent under the provisions of SR 317-B-22. I also find that the respondents have not issued a notice to the applicant before making the recovery and thus they have not given an opportunity of hearing before they made the recovery.

6. In the conceptus of the above facts and circumstances of the case, I am of the considered view that ends of justice would be met if I direct the applicant to file a detailed representation to respondent No.2 & 6 within 15 days and if she complies with this then the respondents are directed to consider the representation as well as this OA as part of the representation and consider her case sympathetically and take a decision by passing a detailed and speaking order within 3 months. I do so accordingly.

7. The OA is disposed of in the above terms. No costs.


(M.P. Singh)
Vice Chairman

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