

Central Administrative Tribunal
Jabalpur Bench

OA No.994/04

Jabalpur, this the 4th day of July, 2005.

C O R A M

Hon'ble Mr.Madan Mohan, Judicial Member

Chandrakant Singh
S/o Indra Bahadur Singh
R/o Qr.No290/4, Type I
MES Colony, Ridge Road
Jabalpur.

Applicant

(By advocate Shri K.Datta)

Versus

1. Union of India through the
Chief Engineer
Command Lucknow,
Lucknow.
2. The Garrison Engineer (West)
Office of the GE(W), Supply Depot Road
Cantonment, Jabalpur. Respondents.

(By advocate None)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) To quash the impugned order dated 17th September 2004
(Annexure A1).
- (ii) To direct the respondents to stop any further proceedings
in the same allegation, which was once decided in the
year 1999 by Annexure A4.



2. The brief facts of the case are that the applicant who is working since 1988 as Mazdoor in the department of M.E.S. under the Ministry of Defence was allotted government quarter No.290/4, Type I, MES Colony, Ridge Road, Jabalpur in July 1996. Respondent No.2 issued a show cause notice dated 22.6.1999 against the applicant alleging that he sublet the quarter. He denied the charges, stating that his elder brother, who had come to visit from his village, was residing with him. However, vide order dated 24th November 2001 (Annexure A4), respondent No.2 imposed the penalty of 'Censure' on the applicant. Thereafter, the respondent No.2 deducted an amount of Rs.2129/- from the pay of the applicant, as damage rent. The applicant challenged this recovery by filing OA No.596/2000. The Tribunal partly allowed the OA and directed the respondents to return the recovered amount to the applicant. The Tribunal observed that no notice was served on the applicant before effecting the recovery and it was against the principles of natural justice. However, a draft show cause notice dated 8th May 2004 (Annexure A6), was issued to the applicant, proposing a recovery of Rs.16, 129/-. The applicant made a representation against the proposed recovery vide his application-dated 23.6.2004 (Annexure A7). It is alleged in the OA that the notice dated 31.5.1997 directing him to vacate or in default pay the damage rent, which is purported to have been served on him by the respondents was never served on him. The respondents issued Annexure A1 impugned order dated 17th September 2004 proposing to effect the recovery at the rate of Rs.2319/- per month. Challenging the Annexure A1 order, the applicant has filed this OA.

3. Heard the learned counsel for the applicant. None is present for the respondents.

4. Learned counsel for the applicant argued that it was mandatory to issue a notice to the applicant for vacation of the government accommodation and only thereafter damage rent could be recovered.



This was not done in this case. He further argued that the respondents had already decided the matter once by passing the penalty of censure and they could not reopen the same after a lapse of many years. The impugned order had been passed without issuing a notice, which is against rules. The counsel further argued that the respondents had not complied with the directions of the Tribunal in the earlier OA.

5. The respondents in their reply contend that the applicant was given due notice for vacating the quarter for violating the allotment rules and also to charge damage rent on failure to do so. When he failed to vacate the quarter, the authority imposed the damage rent and started to recover it in installments. However, this process was held by the Tribunal on the ground of violation of the principles of natural justice and accordingly directed to take action by following the principles of natural justice. In compliance with the directions of the Tribunal, the competent authority refunded the amount already recovered from him and also issued a show cause notice as to why the damage rent should not be imposed on him for subletting the quarter to an unauthorized person in violation of the allotment rules. Applicant did not give any satisfactory reply to the show cause notice. Therefore, the competent authority found the reply not satisfactory and accordingly rejected the same and imposed the damage rent again on him vide order dated 17.9.2004, which is under challenge in the present OA.

6. After hearing the learned counsel for the applicant and carefully perusing the records, I find that in compliance with the directions of the Tribunal in OA No.596/2000, the respondents have issued a show cause notice to the applicant (Annexure A6) in which the fact of issuing the notice of the year 1997 is also mentioned and in reply to the show cause notice, the applicant has submitted his reply (Annexure A7). Hence the argument advanced on behalf of the applicant that the respondents did not comply with the directions given by the Tribunal and the respondents did not issue any show



cause notice cannot be accepted. The applicant has not controverted the facts mentioned in reply of the respondents by filing any rejoinder. I have perused the impugned order (Annexure A1) in which it is mentioned that pursuance to the order dated 7th May 2003 passed by the Tribunal he was issued a notice on 8th May 2004 to show cause as to why the recovery of damage rent be not ordered from him for subletting the Government accommodation. The applicant has been given sufficient opportunity to show cause in accordance with the principle of natural justice.

7. Considering all facts and circumstances of the case, I am of the considered opinion that the OA has no merit and accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

aa.

पूर्णांक सं ओ/व्या..... जबलपुर, दि.....
पत्रिलिपि १३वे दिन:-
(1) रातिब. राजा न्यायालय वार ए प्रेसिलाल, जबलपुर
(2) आवश्यक श्री/श्रीमती, द्वा के जाहंसल
(3) पत्तरी श्री/श्रीमती, द्वा के जाहंसल
(4) अंशपाल, जोडा, जबलपुर कार्यपीठ
सूचना एवं आवश्यक कार्यालय देखु
संपर्क करने वाले द्वारा देखु

K. Dutt ८/२/०३
P. Shankar ८/२/०३

EP द्वारा देखु

7/7/03
5/7/03