

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 1015 of 2004

Jabalpur, this the 13th day of June, 2005

Hon'ble Shri Madan Mohan, Judicial Member

Ashwani Kumar, aged about 43 years,
S/o. Shri Vishambhar Das, Pointsman "A"
Resident of RB-I.E, West Central Railway
Station Makronia, Distt. Sagar (MP). Applicant

(By Advocate – Shri L.S. Rajput)

V e r s u s

Union of India, through

1. General Manager, West Central Railway, Indira Market, Near Railway Station, Jabalpur (MP) 482001.
2. Divisional Railway Manager, West Central Railway, Jabalpur (MP), 482001. Respondents

(By Advocate – Shri S.P. Sinha)

O R D E R (Oral)

By filing this Original Application the applicant has claimed the following main reliefs :

- "(b) quash the impugned orders dated 1.9.2004 (Annexure A-1) & 18.2.1999 (Annexure A-2) holding the same to be arbitrary, illegal & void,
- (c) direct the respondents to refund the entire amount of Rs. 24390/- recovered as damage rent with 18% interest at market rate, minus any rent due towards the said quarter,
- (d) quash any other order/orders passed against the interest of the applicant during the pendency of this case & allow any other relief as deemed just & proper including costs."



2. The brief facts of the case are that the applicant is working as a Points Man "A" in Makronia Railway Station of Jabalpur Division. A Railway quarter No. K-3, B at Sagar Station was allotted to him while he was working as Points Man "B" there. He was transferred to Makronia Railway Station as Points Man "A" on 1st April, 1996. Makronia Station is hardly 7 Kms. from Sagar and is within the corporation limits of Sagar. The Railway employees transferred from Sagar to Makronia or vice versa are allowed to retain the Railway quarters at the previous station on payment of normal rent. The applicant has given a list of such employees who are permitted to retain the quarter. Accordingly, the applicant was also permitted to continue to retain the quarter on payment of normal rent i.e. from 1st April, 1996 to 1.8.1996, the date of vacation of the quarter. No written order was passed and applicant was also not given any notice to vacate the said quarter. Suddenly on 18.2.1999 the applicant was informed about the recovery of the damage rent at the rate of Rs. 813/- per month from 1.4.1996 to 1.8.1998 treating the applicant as unauthorized occupant. The applicant made number of representations but no reply was given to the applicant and the respondents have started making the recovery. The applicant has filed OA No. 334/2004 before this Tribunal and the Tribunal vide its order dated 30.4.2004 disposed of the OA by directing the respondents to decide the representation of the applicant dated 23.10.2001 by passing a speaking, detailed and reasoned order. But this representation was not considered by the respondents and instead a DPO an official of the respondents beyond his jurisdiction and who was not the respondent in that OA No. 334/2004 has rejected the representation of the applicant by impugned order dated 1.9.2004 (Annexure A-1). Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.



4. The learned counsel for the applicant argued that the applicant vacated the Railway quarter at Sagar on 1.8.1998 which was allotted to him on 1.4.1996. During this period the respondents did not give him any written order or any notice for vacation of the said quarter. The learned counsel for the applicant has drawn my attention towards Annexure A-3(b) dated 12.4.1999 in which 12 names of persons are mentioned who were allowed to retain the quarter in similar circumstances for long period. He has also drawn my attention towards the order passed by the Tribunal in OA No. 334/2004 dated 30.4.2004 (Annexure A-4) by which the respondents were directed to decide the representation of the applicant and in that OA only two respondents were there i.e. Union of India, through General Manager, WCR, Jabalpur and Divisional Railway Manager, WCR, Jabalpur. The DPO who has passed the impugned order Annexure A-1 was not a party in that OA. Hence, he was not competent to pass the impugned order. He further argued that similar cases were also decided by the Tribunal in OA No. 41 of 1999 dated 31st January 2003 (Annexure A-6) and in OA 209/1999 dated 1st November, 2002 (Annexure A-7). In the present case the respondents have issued a notice on 18.2.1999 i.e. after 6 months of his eviction of the quarter and hence, the action of the respondents is apparently illegal and not justified.

5. The learned counsel for the respondents argued and accepted that the impugned order dated 1.9.2004 (Annexure A-1) is not actually passed by the competent authority because he was not even a party in OA No. 334/2004 (Annexure A-4).

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, I find that the impugned order dated 1.9.2004 (Annexure A-1) passed in compliance of the order dated 30th April, 2004 in OA No. 334/2004 (Annexure A-4) is not passed by a competent authority. Hence, it is quashed and set aside. The respondent No. 2 i.e. the Divisional Railway Manager, West Central Railway,

Jabalpur is directed to consider and decide the representation of the applicant strictly in accordance with rules and law and also taking into consideration all the facts and grounds taken by the applicant in this Original Application by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of a copy of this order.

7. In view of the aforesaid, the Original Application stands disposed of. No costs.

68

(Madan Mohan)
Judicial Member

“SA”

Fuszel
Mr
14.6.05