

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 363 of 2004

Indore, this the 17th day of Nov. 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

S.K. Niranjan, aged about 42 years,
S/o. Shri Balram Niranjan, Working as
Section Engineer in the C&W Department,
Western Central Railway, Bina,
R/o. F-46, East Railway Colony, Bina (MP). Applicant

(By Advocate – Shri R.G. Soni)

V e r s u s

1. Union of India, through General Manager, Western Central Railay, Jabalpur.
2. Divisional Railway Manager, Western Central Railway, Habibganj (Bhopal). Respondents

(By Advocate – Shri Raja Sharma on behalf of Shri V.K. Bharadwaj)

O R D E R

By Madan Mohan, Judicial Member –

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

"i) to issue a writ, order or direction in the nature of certiorari thereby quashing the impugned orders of recovery of damage rent dt. 7.3.2000 (Annexure A-VI), 16.2.2002 (Annexure A-VII) and dt. 11.10.2002 (Annexure A-IX) issued by respondents,

ii) to issue another writ, order or direction the nature of mandamus thereby commanding the respondents to refund the amount recovered as damage rent with interest by deducting the normal rent of Rs. 114/- per month for the period the petitioner remained at Itarsi, for which a time bound direction is solicited."



2. The brief facts of the case are that the applicant was allotted a Railway quarter No. D-3/A at Bina. The normal rent of this quarter is Rs. 114/- per month. He was transferred to Itarsi and there he resumed the charge on 27.11.1997. He submitted an application on 15.12.1997 through proper channel for permission to retain the aforesaid quarter at Bina but no reply was given to him. The applicant was again transferred back to Bina from Itarsi and resumed the charge on 2.9.1999. He further submitted an application on 9.9.1999 to the Divisional Railway Manager for further retention of the quarter allotted to him on humanitarian grounds but no communication was made to him. During the period the applicant remained at Itarsi from 27.11.1997 to 1.9.1999, he was declared as unauthorized occupant of the quarter allotted to him at Bina. No notice was ever given to the applicant hence, he cannot be said to be unauthorized occupant of the said Railway quarter. All of a sudden the DRM, Bhopal worked out the recovery of damage rent to the tune of Rs. 1,19,950/- and Rs. 92,005/- has already been recovered from the pay sheets of the applicant which amounts to a major punishment. The applicant submitted a representation on 2.4.2001 through proper channel praying for waiver of recovery of damage rent. He again submitted a representation on 18.4.2001 to DRM, Bhopal. The DRM, vide letter dated 7.3.2000 advised that the employee had returned on transfer after 21 months and he did not obtain permission for retention of Railay quarter, therefore, the recovery of damage rent is to be made @ of Rs. 4798/- per month as the total recovery comes to Rs. 1,19,950/. The Section Engineer, Bina vide his letter dated 16.2.2002 had advised the applicant that the recovery from the month of February, 2000 will be made @ Rs. 2,000/- per month as per decision of the competent authority. The DRM Bhopal vide his letter dated 11.10.2002 advised the Section Engineer that the applicant occupied the Railway quarter unauthorisedly from 27.11.1997 to 15.5.2000 and on his request from 27.11.1997 to 26.1.1998 on normal rent, from 27.1.1998 to 31.3.1998 on double rent and from



1.4.1998 to 15.5.2000 & of Rs. 4798/- per month as damage rent is to be recovered. The action of the respondents is apparently illegal and unjustified. Hence, this Original Application is filed.

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

4. It is argued on behalf of the applicant that he was initially allotted the aforesaid Railway quarter on 15.5.1997 at Bina. He was transferred to Itarsi on 27.11.1997. The applicant submitted an application on 15.12.1997 for permission to retain the above quarter at Bina till the academic session of the children is over but no positive reply was given by the respondents. The applicant was transferred back to Bina from Itarsi and he resumed there on 2.9.1999. Again the applicant submitted an application on 9.9.1999 for regularisation and retention of the aforesaid Railway quarter. The applicant cannot be said to be declared as unauthorized occupant while he remained at Itarsi. The respondents never issued any show cause notice before the order of recovery and the applicant was also not heard and without giving any opportunity to him, the impugned order is passed. The DRM, Bhopal worked out for recovery of damage rent from the applicant to the tune of Rs. 1,19,950/. The representations submitted by the applicant from time to time were never considered by the respondents and the applicant cannot be said to be unauthorized occupant. Hence, the action of the respondents is apparently illegal and is not justifiable and the OA deserves to be allowed.

5. In reply it is argued on behalf of the respondents that the applicant unauthorisedly occupied the Railway quarter after his transfer from Bina to Itarsi, without any permission of the authority concerned. He did not submit any educational certificate of his children with his application dated 15.12.1997 (Annexure R-7) which was mandatory as per the establishment rules and he also did not submit any medical certificate with his application for his illness of his wife. Hence he cannot take the



benefit of sympathy of the illness of his wife. The applicant at his own request has been transferred back to Bina from Itarsi and as per the policy of the Department the applicant had to wait for his turn for retention of the quarter and thus the applicant cannot claim out of turn benefit. The copy of the policy dated 10.11.1995 (Annexure R-3). The respondents did not allow the quarter again to the applicant and refused his request vide Annexures A-1 and A-2. Therefore, now no question of declaring the applicant as authorised occupant arises. The applicant was aware of the action of the respondents and it was well within his knowledge that without prior permission the aforesaid quarter which was initially allotted to him at Bina, cannot be retained himself. The damage rent is charged from the applicant according to the rules and Rs. 95,663/- has already been deducted out of the total damage rent. Hence, the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the respondents had allotted a Railway quarter No. D-3/A at Bina on 15.5.1997 to the applicant. He was transferred from Bina to Itarsi on 27.11.1997. The applicant had submitted an application seeking permission to retain the aforesaid quarter on 15.12.1997 (Annexure A-1). Thereafter, he was again transferred back to Bina from Itarsi and resumed his duties on 2.9.1999. He again submitted an application on 9.9.1999 (Annexure A-2) for retention and regularization of the aforesaid Railway Quarter. We find that the respondents have specifically argued that the applicant had neither filed any education certificate regarding his children nor any medical certificates regarding illness of his wife. The aforesaid both the grounds of the applicant were not allowed and the respondents refused the request of the applicant. Even then the applicant did not vacate the aforesaid quarter of the Railway and he vacated it on 15.5.2000. The respondents have charged normal rent for the period from 27.11.1997 to 26.1.1998, double the normal rent from 27.1.1998 to 31.3.1998 and from 1.4.1998 to

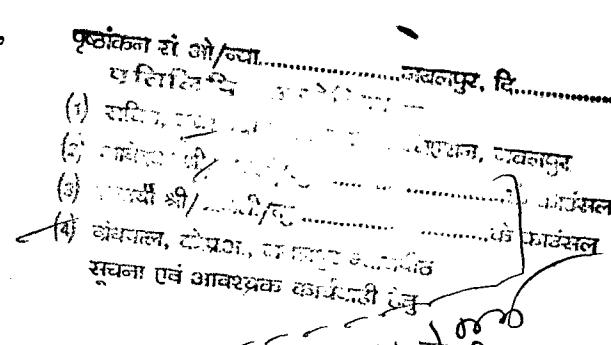


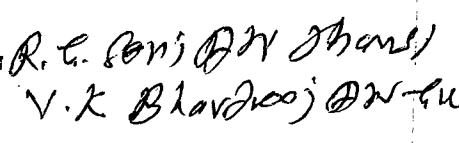
15.5.2000 i.e. till the date of vacation of the aforesaid Railway quarter the respondents have charged Rs. 4,798/- per month. The applicant could not file any document granting him permission to retain the aforesaid quarter by the respondents which was initially allotted to him on 15.5.1997 at Bina. The applicant is a Government employee and he is well conversant with the relevant rules regarding occupation of the Government accommodation. We have perused the impugned orders passed by the respondents and also the document submitted by the respondents during the course of arguments and find that the respondents have already recovered the whole amount of damage rent from the applicant and now there is no amount to be recovered from the applicant on account of damage rent. The action of the respondents is perfectly legal and justified.

7. After considering all the facts and circumstances of the case we are of the considered view that this Original Application has no merits and is liable to be dismissed. Accordingly, the same is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

“SA” 
 शैक्षण रां जो/बा. अब्दलपुर, दि.
 (1) रामी, दि.
 (2) अमरेश, दि. अब्दलपुर, दि.
 (3) विनोदी श्री/ दि. अब्दलपुर, दि.
 (4) बंदिल, दोप्राता, दि. अब्दलपुर, दि.
 सूचना एवं आवश्यक कागजाती है।


 R.C. Banjara (Signature)
 V.K. Bhandari (Signature)


 J.S. Singh (Signature)