

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.457/04

Jabalpur, this the 28th day of July, 2004

C O R A M

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

S.P.Trivedi
S/o Shri Motilal
R/o Pujaryna Mohhala
Post Prithvipur
Dist. Tikamgarh (MP)

...Applicant

(By advocate Shri A.K.Tiwari)

Versus

1. Union of India through
its General Manager
West Central Railway
Jabalpur.
2. Divisional Railway Manager
West Central Railway
Bhopal.
3. Senior Divisional Personnel officer
West Central Railway,
Bhopal.

...Respondents

(By advocate Shri M.N.Banerjee)

O R D E R (oral)

By Madan Mohan, Judicial Member

The applicant seeks to set aside Annexure A1 order dated 2.3.04.

2. The brief facts of the case are that the applicant retired on attaining the age of superannuation w.e.f. 31.10.95. While working in the Railways, he was allotted a railway quarter No.229 G at Railway Colony, Habibganj. By letter dated 15/2/2000, the respondents informed the applicant that as per the court's order the normal rent upto 11/9/97 has to be deducted and damage rent upto the date of vacating the quarter would be deducted. Thereafter the applicant preferred a representation dated 13/3/2000. ^{in OA 29/2000 decided on 17.1.2000} As per the court's order, Rs.58485/- was deducted as damage rent including other charges and the balance amount of gratuity Rs.28466 was paid to the applicant (Annexure A6). The applicant vacated the quarter on 9.3.2000.



on 24/6/03, the respondent department issued again an order for recovering Rs.24282/- as damage rent for the period of 1.5.96 to 11.9.97 on extrenous reasons which was challenged by the applicant and the court quashed the order dated 24.6.03 passed by the respondents ^{in O.A 609/03} while issuing the letter dated 2.3.04, the department had not supplied the copy of the Railway Board's letter and neither have they quoted the rule as to which provision for referring the matter to the Railway Board and the whole exercise has been done behind the back of the applicant just to harass the applicant which is bad in law. While deciding the earlier OA 609/03, this Tribunal quashed the order dated 24.6.03. However, the respondent department was given liberty to adopt the procedure in this regard. Applicant is a retired person, therefore, no recovery can be made without taking sanction from the President though in this matter the respondent department has failed to adopt the procedure, therefore, this letter dated 2.3.04 is bad in law and is liable to quashed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the Railway Board has not issued any letter and the direction given by the Tribunal in OA 609/03 has not been duly complied with in accordance with rules and further argued that the respondents have already charged the alleged amount of rent vide letter dated 3.4.2000.

4. In reply, learned counsel for respondents argued that the Tribunal by its order passed on 29.9.2003 had been pleased to allow the OA with the direction that the respondents shall refer the case for waiving of the damage rent as per the directions of the Tribunal to the Railway Board and they will be at liberty to take further necessary action for recovery of the damage rent from the pensioner.



The matter was referred to the Railway Board and it was observed that as per the existing rules and also taking into consideration the judgement of the Hon'ble High Court of Delhi in a writ petition, no relaxation is permissible. The Railway Board has not agreed to waiver of damage rent in the case of the applicant. Copy of Railway Board's order is marked as Annexure R-1. It is incorrect to say that damage rent has already been charged by the respondents.

4. After hearing the learned counsel for both parties and careful perusal of the records, we find that as per the order in OA No.609/03 decided by the Tribunal on ~~24.6.03~~ ^{29.9.03}, it was directed to refer the matter to the Railway Board for necessary action. We have perused the letter of the Ministry of Railways (Railway Board) dated 15.1.04 (Annexure R-1) which supports the arguments of the respondents and we have also perused the letter dated 3.4.2000 (Annexure A6). Applicant's counsel has argued that damage rent has already been charged from the applicant by the respondents. It is also not correct in view of the letter of the aforesaid Railway Board dated 15.1.04 (Annexure R-1). The respondents have fully complied with the directions given by this Tribunal in the aforesaid OA and there is no irregularity or illegality in the action of the respondents. Hence this OA is dismissed. *No costs.*

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पूरांकन से ओ/ए जयपुर, दि.....
प्रतिनिधि कार्यालय

- (1) सचिव, उच्च न्यायालय, जयपुर
- (2) आवेदन श्री/श्रीमती/श्री के काउंसल
- (3) श्री/श्रीमती/श्री के काउंसल
- (4) के काउंसल

Shri A K Tiwari
Shri Chawhan Banerjee

मुख्य एवं आवेदन कार्यवाही हेतु
उप सचिव

[Signature]
उप सचिव

Shree