

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT INDORE

OA No.502/04

Indore, this the 19th day of August, 2005.

CORAM

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN
HON'BLE MR.MADAN MOHAN, JUDICIAL MEMBER

Madhav Singh Chauhan
S/o Shri Mehtab Singh Chauhan
Station Master
Mangliya Gaon, Western Railway
Indore. Applicant.

(By advocate Shri Abhishek Gupta on
behalf of Shri K.K.Soni)

Versus

1. Union of India through
General Manager
Western Railway, Church Gate
Mumbai.
2. Divisional Railway Manager
Western Railway, Ratlam. Respondents.

(By advocate Shri D.S.Patel on behalf
of Y.I.Mehta)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks to direct the respondents to stop recovery of damage rent of Rs.1627 per month from his salary and further direct to refund the total damage rent of Rs.76599/- deducted till date and also refund electric charge of Rs.3146 deducted in excess.

2. The brief facts of the case are that the applicant who is presently working as Station Manager at Mangliya Gaon Railway Station was allotted House No.T-22/J vide order dated 29.7.85 when he was posted at Ujjain. When he was transferred to Chancholav, a request was made by him to retain the quarter till 30.4.94 and the request was accepted. In the meantime, the applicant was transferred to various places like Ajanti, Nayikhedi, Sipra Bridge but during the period from 14.9.93 to 27.8.97 no railway quarter was allotted to him and he

continued to occupy the said quarter till he was transferred again to Ujjain. The respondents started deduction of Rs.120/- towards monthly rent instead of normal rent of Rs.27/- from August 1996. Applicant preferred a representation dated 25.2.97 but no heed was paid. Thereafter he preferred an OA 641/97 which was disposed of vide order dated 14.2.02 with a direction to the respondents to dispose of his representation.

The representation was decided on 9.5.02. As the respondents left some issues undecided, the applicant again approached the Tribunal by filing OA No.492/02. However, the respondents again rejected the claim of the applicant. Aggrieved, the applicant has filed this OA.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant on transfer from Ujjain to various places including Sipra Bridge which is in the Ujjain District had not been allotted any quarter of the Railways and therefore, he was compelled to continue occupying the quarter No.T-22/J after 30.4.94. Hence the damage rent is illegal. The action of the respondents is without any basis and illegal and is liable to be interfered by the Tribunal.

4. In reply, learned counsel for the respondents argued that even after transfer on his request, the applicant was permitted to retain the said quarter upto 30.4.94. However, after 30.4.2004, the applicant did not surrender/vacate the said quarter even though he was transferred to various places. The rule does not permit the retention of quarter at Ujjain (the original place of allotment) even if the applicant may not have been allotted any quarter at the place where he was transferred but in that case he would be entitled to HRA as per rules at the place of transfer where the quarter is allotted. Thus he had no right to retain the quarter in question after 30.4.94 and was liable to pay

damage rent as per rules and accordingly such amount was calculated till he vacated the quarter on 27.2.2002. The applicant was allowed to occupy the quarter in question till 30.4.94 due to academic session of his children and on expiry of the same he was occupying the same unauthorisedly till 27.2.2002. For the above reason, the respondents are entitled to recover damage rent from 1.5.94 to 27.2.2002 and the same is being recovered at the rate of Rs.1627 per month. Hence the action of the respondents is perfectly legal and justified.

5. After hearing learned counsel for both parties and carefully perusing the records, we find that admittedly the applicant was permitted to retain the quarter in question till 30.4.94 because of the academic session of his children. Though he was transferred to various places, he did not vacate the quarter allotted to him at Ujjain. The argument advanced on behalf of the respondents is that if no government quarter was allotted to the applicant at the transferee station, he can only claim HRA as per rules but he cannot retain the quarter allotted to him at Ujjain. He vacated this quarter on 27.2.2002. The applicant had earlier filed two OAs and in compliance with the directions of the Tribunal, the respondents have passed a speaking, detailed and reasoned order. The applicant has not filed any rejoinder against the contention mentioned in the return filed on behalf of the respondents. No employee can be legally permitted to occupy the government accommodation on his transfer without due permission of the department. In the present case, the applicant was transferred to various places but he did not vacate the government accommodation which was originally allotted to him at Ujjain and he was only permitted to retain till 30.4.94.

6. Considering all facts and circumstances of the case, we find that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या. जबलपुर, दि.....
प तिलिपि अयेमित:-

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| (1) सचिव, उच्च न्यायालय कार एरोसिएशन, जबलपुर | |
| (2) आवेदक श्री/श्रीमती/शु. | के काउंसल K.K. Suresh Dm 1110 |
| (3) प्रत्यक्षी श्री/श्रीमती/शु. | के काउंसल Y.D. M. H. 1110 |
| (4) गंधारवा, को.प्र.अ., जबलपुर प्रत्यक्षी | |
| सूचना एवं आवश्यक कार्यवाही हेतु | |
| जय रजिस्ट्रार | |

Issued
24-8-05