

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR-

Original Application No. 637 of 2004

Jabalpur, this the 13th day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman

Lakhanlal Soni, S/o. late Panchamlal  
Soni, Aged about 32 years, R/o. Qr.  
No. 105/1, New Type-I, Ordnance Factory,  
Khamariya Estate, Khamaria, Jabalpur. ... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, Ministry of Railway, Through its Secretary, New Delhi.
2. Chairman, Ordnance Factory Board, 10-A, S.K. Bose Marg, Kolkata.
3. General Manager, Ordnance Factory, Khamariya, Jabalpur.
4. Estate Officer, Ordnance Factory, Khamariya, Jabalpur.
5. Controller of Quality Assurance (Weapons), Gun Carriage Factory, Jabalpur.

... Respondents

(By Advocate - Shri S.K. Naqpal on behalf of Shri P. Shankaran)

O R D E R (Oral)

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

"(ii) set aside the order dated 15.1.2004 and 4.8.2004 Annexure A-1 and Annexure A-2,

(iii) Direct the respondents to stop recovering damage/penal rent from the salary of the applicant,

(iv) Direct the respondents to refund the damage/penal rent which has already been recovered from the salary of the applicant."

2. The brief facts of the case are that the applicant who is working as a Darban in Ordnance Factory, Khamaria, Jabalpur was allotted a Government accommodation. The respondents vide letter dated 15.1.2004 has cancelled the licence of the Government accommodation which was allotted to the applicant. Aggrieved by this the applicant has

filed this original Application challenging the order dated 15.1.2004 and the subsequent action taken by the respondents by issuing the notice under the Public Premises (Eviction of Un-authorised occupants) Act, 1971, dated 4.8.2004.

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

4. The learned counsel for the applicant has stated that the respondents ~~has~~ passed the impugned order dated 15th January, 2004 cancelling the licence of the Qr. No. 105/1, Type-I, allotted to the applicant on the ground that his brother Shri Bhuwan Soni, s/o. Shri Panchamal Soni residing with ~~him~~ him is involved in several criminal cases and is also involved in antisocial activities in the Estate area. No notice was given to the applicant to reply to the allegations made against him and also no opportunity of hearing was granted/before termination of the licence.

5. On the other hand the learned counsel for the respondents stated that the notice dated 4th August, 2004 has been issued under Sub Section (1) of Section 4 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971 and as per the judgment of the Hon'ble Supreme Court in the case of Union of India Vs. Sh. Rasila Ram & Ors., 2001(1) ATJ 261, this Tribunal has no jurisdiction to go into the legality of such an order passed under Public Premises (Eviction of Un-authorised Occupants) Act, 1971.

6. The learned counsel for the applicant further submitted that he will be satisfied if his relief <sup>only</sup> to

set aside the order dated 15th January, 2004 is considered by the Tribunal as the respondents have not granted any opportunity of hearing to the applicant/<sup>or</sup> to reply to the allegations made against him for cancelling the licence of the aforesaid quarter. Hence, this order dated 15th January, 2004 is not sustainable in the eye of law.

7. After hearing the learned counsel for the parties and on careful perusal of the records, I find that the applicant does not press the relief for quashing of the notice dated 4.8.2004 and only restricts his reliefs to quashment of the order dated 15.1.2004 and to refund the damage/penal rent which has already been recovered from the salary of the applicant. Since the respondents have not given any show cause notice to the applicant before passing the impugned order dated 15th January, 2004 terminating the licence of the Qr. No. 105/1, Type-I, this order is not sustainable in the eye of law and deserves to be quashed and set aside. Accordingly, the order dated 15.1.2004 is quashed and set aside and the respondents are at liberty to consider the representation of the applicant dated 3.2.2004 (Annexure A-3) and proceed against the applicant in accordance with rules and law. The recovery already made by the respondents in pursuance of the order dated 15.1.2004 be refunded to the applicant within a period of three months from the date of receipt of a copy of this order.

8. Accordingly, the Original Application stands disposed of. No costs.



(M.P. Singh)  
Vice Chairman