

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 751 of 2004

Jabalpur, this the 17<sup>th</sup> day of November, 2004

Hon'ble Shri Madan Mohan, Judicial Member

Chhotelal, aged about 44 years, S/o. late Mahadeo, employed as Sweeper in the office of Senior Health Inspector, Central Railway, Satna, resident of Rly. Quarter No. J-49/E, Near Shankarji Mandir, Rly. Colony, Satna (MP). ... Applicant

(By Advocate - Shri B.K. Pandit)

V e r s u s

1. Union of India, through the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. Divisional Rail Manager, West Central Railway, Jabalpur.
3. Assistant Engineer (M), West Central Railway, Satna (MP).
4. Senior Health Inspector, West Central Railway, Satna (MP). ... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R

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

"(i) that the order dated 13.7.2004 passed by the respondent No. 2 saddling upon the applicant the damage rent vide Annexure A-2 for the house No. J-49/E amounting to Rs. 106518/- be kindly quashed,

(ii) that the normal rent of Rs. 30/- per month of the said premises which the applicant is till date payee be kindly allowed to be continue in future,

(iii) the damaged rent recovered from the applicant @ 1103/- per month from July 99 till Nov. 99 be kindly ordered to be returned to the applicant by the respondents."

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2. The brief facts of the case are that the applicant is a Class IV Railway employee working under respondent No.4 on the post of Sweeper since 10.5.83. He was allotted a railway quarter by the Quarter Allotment Committee, Satna, at a monthly rent of Rs.25/- which was being regularly deducted from his salary. Respondent No.2 issued an order dated 2.12.98 for having sub let the above quarter to an outsider and therefore, recovery of damage rent w.e.f. 26.11.97 was ordered to be effected from the applicant. The allotment of the quarter was cancelled and the applicant was declared as unauthorized occupant. The applicant controverted the allegations of the respondents. No enquiry was made by the respondents to ascertain the facts. Respondent No.4 vide letter dated 10.12.97 informed the applicant that the allotment of the quarter of the applicant had been cancelled by respondent No.3 vide his order dated 26.11.97. No opportunity was given to the applicant by the respondents in order to demonstrate that no outsider was living in that quarter. Apart from deducting the normal rent of Rs.30/-, the respondents started deducting Rs.1103/- per month from the salary of the applicant from July 1999 till Nov. '99. As per the order of the Tribunal dated 19.2.04, the applicant submitted a representation to respondent No.2 seeking return of the damage rent recovered from the applicant. This representation was disposed of by the respondents vide order dated 13.7.04 and the applicant was directed to vacate the quarter and imposed a damage rent starting from 1.11.99 to 30.6.04 amounting to Rs.106518/-. It was also stated therein that the deduction will start from Oct. 2004 at the rate of Rs.3000/-



per month while the total salary of the applicant is Rs.2034/- . Hence the action of the respondents is illegal.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the respondents did not conduct any enquiry regarding the alleged sub letting of railway quarter allotted to the applicant and the applicant was never given any opportunity of hearing before passing the impugned order. The salary of the applicant after all deductions is Rs.2034/- only per month while deduction at the rate of Rs.3000/- per month towards the damage rent is ordered to be recovered from his salary from the month of October 2004, which is virtually not possible because the total take home salary of the applicant is less than the amount of proposed deduction. The applicant had filed an earlier OA No.267/2000 and vide order dated 19.2.04, the applicant was directed to make a fresh representation and the respondents were directed to consider the said representation. However, the respondents have not considered the facts and contents of the representation submitted by the applicant and have passed the impugned order which is against law and is liable to be quashed.

4. In reply, the learned counsel for the respondents argued that during a joint inspection of railway quarters at STA conducted by Sr.Subordinates, SE(Wks), HI and CWI STA from 6.9.97 to 15.9.97 it was found that the applicant instead of living in the said quarter sublet the same to an outsider, named Deepak Verma. Due to the above reason, the allotment order was cancelled vide order dated 26.11.97 and a show cause notice dated 29.6.98 was issued to him to submit his explanation. Damage

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rent as per rule Rs.1103/- had been deducted from the regular pay of the applicant from Jan.99 to Oct.99. Thereafter recovery of damage rent had been stopped. Since then, no recover is being made, only normal rent is being recovered from the applicant. As per the order of the Tribunal dated 19.2.04, the respondents had issued an order dated 13.7.04on the representation of the applicant whereby the applicant has been asked to vacate the railway quarter within 15 days. He has also been informed that damage rent for the period from 1.11.99 to 30.6.04 would be recovered at the rate of Rs.3000/- p.m. from Oct.2004. Hence the respondents have passed the impugned order after hearing the applicant and after conducting due enquiry.

5. After hearing the learned counsel on either side and a careful perusal of the records, I find that the applicant had filed an earlier OA No.267/00 in this regard, which was disposed of vide order dated 19.2.04 directing the applicant to make a fresh representation and the respondents were directed to consider the said representation and to take a decision by passing a speaking, detailed and reasoned order. In compliance with the directions, the respondents have passed the order dated 13.7.04 (Annexure A2). In the reply of the respondents, it is clearly mentioned that during a joint inspection of the railway quarter in question, it was found that the applicant had sublet the quarter allotted to him to one Deepak Verma. Hence it cannot be said that no enquiry was conducted by the respondents regarding the fact of sub letting the quarter in question. It is also mentioned in the reply that a show cause notice was issued to the applicant to submit his explanation within 7 days. Hence due opportunity



of hearing was given to the applicant. The applicant could not show any malafide intention or other adverse fact against the respondents. The respondents have proposed a monthly recovery of Rs.3000/- from the applicant's pay while according to the pay slip of the applicant his take home salary is Rs.2034/- only. In this regard, the learned counsel for the respondents argued that the respondents may be directed to reduce the amount of proposed monthly recovery to a convenient instalment.

6. After considering the entire facts and circumstances of the case, I am of the opinion that the damage rent is Rs.106518/- while the monthly salary of the applicant – cash in hand – is Rs.2034/- only. Therefore the respondents are directed to reconsider about the <sup>amount of</sup> damage rent i.e. Rs.106518/- strictly in accordance with rules sympathetically considering that the applicant is a low paid employee and to reduce the amount of proposed recovery and also to make recovery in convenient monthly installments only.

7. The OA is disposed of as above. No costs.

(Madan Mohan)  
Judicial Member

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....  
पत्रिलिपि अब्दे धितः—

**aa.** (1) उमिंव, उच्च न्यायालय वार एसोसिएशन, जबलपुर  
 (2) आवेदक श्री/महिला/ज्ञा. .... के काउंसल Shri B.K Pandit, HC द्वारा  
 (3) प्रत्यक्षी श्री/महिला/ज्ञा. .... के काउंसल Shri Mar Bahadur Chaudhary  
 (4) विद्यालय नं. ८३, जबलपुर व्यावसीठ

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