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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 187 of 2003

Jabalpur, this the 9th day of May 2003

Hon'ble Shri R.K. Upadhyaya - Administrative Member.
Hon'ble Shri J.K. Kaushik - Judicial Member.

Narmada Jyoti Sharma, W/o late Shri
Bhagwat Prasad Sharma, aged about
35 years, presently posted as Khalasi,
workshop, in the office of Senior Section
Engineer (work), Katni, Central Railway,
Katni, (MP). ... Applicant
(By Advocate - Shri V. Tripathi)

V e r s u s

1. Union of India, through the
Secretary, Railway Mantralaya,
Railway Bhawan, New Delhi.
2. Divisional Manager, Central
Railway, Jabalpur Division,
Jabalpur (MP).
3. The Section Engineer (Works),
Katni, Central Railway, Katni,
(MP). ... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R

By R.K. Upadhyaya, Administrative Member :-

This application has been filed challenging order dated 13/02/2002 (Annexure A/1) by which the allotment of the applicant of house No. RBI/207/F, Katni has been cancelled and damage rent has been ordered to be recovered from the applicant.

2. The applicant was allotted quarter No. RBI/207/F, Katni in which she claims to be staying. However it is alleged that during the survey conducted between 15/01/2002 to 18/01/2002, it was found that one Shri Swapan Kumar, Pointsman was staying as sub-tenant. The applicant states that there was no sub tenant kept by her, on the other hand she has been staying in the subject quarter alongwith her 3

Ch. B. Banerjee

children. At the relevant time when survey team visited the place, the applicant's sister-in-law had come to visit her as her daughter was not well. It is stated by the learned counsel of the applicant that inspite of having tendered evidence to support the claim of the applicant that she was staying in the subject quarter, her allotment has been cancelled and direction has been issued to recover damage rent from her.

3. The learned counsel of the respondents stated that when the survey team visited the subject premises it was occupied by one Shri Swapan Kumar. The applicant was given a show cause notice dated 21/01/2002 in which she was informed that the survey team has found Shri Swapan Kumar, Pointsman in the occupation of the premises as a sub-tenant. However no reply within the period allowed, i.e., within 7 days was received. Therefore the order dated 13/02/2002 has been issued by the competent authority cancelling the allotment as alleged, and the applicant was ordered to pay damage rent. According to the learned counsel, the application deserves to be dismissed having no merits.

4. We have heard the learned counsel of the parties and have perused the ~~XXXXXXXXXX~~ material available on record. The applicant has specifically stated that on receipt of the notice dated 21/01/2002, she ~~had~~ submitted a reply on 29/01/2002 through proper channel. In this reply it was specifically stated that she was staying in the subject quarter and one of her relatives had come to visit her. It appears that the respondents have not confronted the applicant with any material in their possession to show that the subject quarter was being

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occupied by another Railway employee Shri Swapan Kumar, Pointsman. The applicant has also submitted not only certificate from her neighbours that she was staying there, but also the addresses as recorded for her gas supply and for her bank account. During the course of hearing, we were indulgent enough to seek from the respondents the material to support the claim of the respondents. A file styled as Survey Part-I was produced where the applicant's reply dated 31/01/2002 was also found on the file. In the impugned order there is no reference to the reply filed by the applicant. It is not also clear whether the survey team found Shri Swapan Kumar, Pointsman in occupation of the entire premises or part of it. All these things required to be investigated and ascertained by the respondents before such harsh decision to cancel the allotment of Government quarter of the applicant is taken. In any case, the applicant as well as Shri Swapan Kumar, Pointsman are both employees of the respondents. They can be called upon to substantiate their positions by offering corroborative evidence about their stay or non-stay in the subject quarter. In the circumstances, the impugned order dated 13/02/2002 (Annexure A/1) is quashed and the respondent No. 2 is directed to re-consider the whole material afresh in the light of our observation hereinbefore. The respondent No. 2 is further directed to take into consideration the reply dated 31/01/2002 as well as subsequent representation of the applicant dated 27/12/2002 (Annexure A/3) before taking a final decision. If necessary, the respondent No. 2 may also consider offering of an opportunity of personal hearing to the applicant or her representative. After considering the material, the respondent No. 2 will be at liberty to pass a fresh order in accordance with the rules on the subject.

Chintan

5. In view of the observations and direction in the preceding paragraph this original application is disposed of without any order as to costs.

DKa
(J.K. KAUSHIK)

JUDICIAL MEMBER

UUpadhyaya

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

पूर्वांकन द्वारा/द्वारा अन्वयन, दि.

परिवर्तनी

- (1) अंक 1
- (2) अंक 2
- (3) अंक 3
- (4) अंक 4

कृपया दें

V. Tripathi, Adm.
M N Bawali, Adm.

Prashant
17/5/03

Issued
on 13/5/03
by B

"SA"