

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 296 of 2003

Jabalpur, this the 3rd day of September, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

S.H. Paul S/o Shri S.V. Paul,
aged 56 years, Senior Loco Inspector
Western Central Railway, Bina (M.P.)

APPLICANT

(By Advocate - Smt. J. Choudhary)

VERSUS

1. Union of India
through General Manager
Western Central Railway, Jabalpur
2. Divisional Railway Manager (P)
Western Central Railway,
Bhopal.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R

By Anand Kumar Bhatt, Administrative Member -

This Original Application is presented by the applicant against the order dated 10.11.2000 (Annexure A-VI) charging damage rent from the applicant for unauthorised occupation of the Railway Quarter allotted to him at Bina.

2. The facts of the case in brief are that the applicant was transferred from Bina to Bhopal vide order dated 28.10.1996. Against this transfer order he had filed an Original Application in the Tribunal and the Tribunal while deciding the Original Application vide order dated 14.11.1996 directed the respondents to decide the representation of the applicant dated 31.10.1996 before 30.11.1996. It was also provided that till the representation is decided, ~~the~~ status-quo shall be maintained. The representation was decided ^{on 20.11.1996} and he was relieved on 21.11.1996. The applicant also filed a contempt petition No. 92/1996, wherein the Tribunal directed the applicant to meet the D.R.M., Bhopal in person with his representation.

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The respondents were directed to decide the representation of the applicant within a period of 15 days. In compliance, the applicant met the competent authority. However no decision was taken on his representation and therefore the applicant filed another contempt petition No. 16/1997, wherein the Divisional Railway Manager, Central Railway, Bhopal was ordered to appear in person on the next date of hearing. The representation of the applicant dated 31.10.96 was again decided on 5th May, 1997 (Annexure A-IV). By this order the applicant was directed to resume his duties at Bhopal as he was already relieved on 21.11.1996. The applicant filed an Original Application No. 120/1997, wherein vide order dated 19.05.1998 he was allowed to join as Senior Loco Inspector (Safety), Bhopal within a week from the date of the order i.e. 19.05.1998. It was further provided that the respondents shall not further linger the matter on any account and without prejudice to any action they may initiate for the absence. Ultimately the applicant joined at Bhopal on 26.05.1998. He vacated the quarter at Bina on 30.11.2000. The applicant submits that vide order dated 10.11.2000 the respondents issued an order of recovery of damage rent of Rs. 2,26,130/- for unauthorised retention of Railway quarter without permission from 22.11.1996 to 30.11.2000. The applicant further submits that he was paying normal rent at Bina as his family was occupying the quarter at Bina. He was occupying a private quarter in Bhopal, since he had not been allotted Railway Quarter even though he applied for allotment. His application for retention of the quarter at Bina was not replied to by the Railway Authorities. Thus he claimed that the said order of charging penal rent is arbitrary. The learned counsel also stated that the applicant was not allowed to join at Bhopal and he was also not paid the TA/DA.

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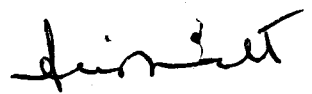
3. The respondents have stated that the recovery of damage rent is as per the rules for unauthorised retention of the Railway Quarter without permission from 22.11.1996 to 30.11.2000. OA No. 775/1996 was complied with by deciding the representation of the applicant on 20.11.1996 and he was relieved on 21.11.1996. In the contempt petition No. 92/1996 the DRM, Bhopal considered the representation of the applicant vide letter dated 5.5.1997 and the applicant was directed to resume at Bhopal as he was already relieved on 21.11.1996. It is not correct to say that the applicant was not allowed to join at Bhopal as he was not paid TA and DA. The applicant did not apply for any advance on his transfer and he should have joined first and then submit his claim for TA/DA as per the rules. After relieving the applicant has presented himself for duty in Bhopal for the first time on 26.05.1998. The applicant was not permitted to retain the quarter after his relieving on 22.11.1996 and therefore the order dated 10.11.2000 regarding payment of damage rent has been issued. The applicant never made any request to retain the quarter within the permissible period of 8 months from the date of transfer i.e. 21.11.1996, as per the rules and there he was liable to pay the damage rent.

4. We have considered the pleadings and heard the learned counsel on both the sides.

5. The total recovery against the applicant is for an amount of Rs. 2,26,130/-, whereas the normal rent for the said quarter at Bina is Rs. 159/- per month. As per the rules on retention of Railway Quarter which were issued by the Railway Board vide their letter dated 01.06.2001 (Annexure R-2) a transferred employee is permitted ^{for} ~~for~~ retention for 2 months on payment of normal rent and further six months on payment of double the flat rate of licence

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fee. The applicant was initially relieved from Bina on 21.11.1996. The applicant had come to the Tribunal first time in OA No. 775/1996 in which the Tribunal directed the respondents to decide the representation of the applicant which was decided by them on 20.11.1996 and the applicant was relieved on 21.11.1996. However in another contempt petition the Tribunal directed the DRM, Bhopal to consider the representation of the applicant which was decided on 05.05.1997 (Annexure A-IV). After a long interval he ultimately joined at Bhopal on 26.05.1998 and as per the records vacated the quarter on 30.11.2000. As the applicant joined at Bhopal on 26.05.1998 there does not seem to be any justification for him to retain the quarter upto 30.11.2000. As regards the re-tention of quarter from 22.11.1996 to 25.05.1998, we feel that a lenient view should be taken, as the recovery of the damage rent of Rs. 2,26,130/-, for a quarter, normal rent of which is 159/- Rs. per month is harsh. It is accordingly ordered that from 22.11.1996 to 25.05.1998 he may be charged normal rent for the first two months, double the normal rent for the subsequent six months and 4 times the normal rent for the subsequent period till 25.05.1998. Damage rent would ^{be reduced} ~~stay~~ from 26.05.1998 to 30.11.2000. The amount so calculated for the aforesaid period shall be deducted, after adjusting the amount already recovered if any, in reasonable monthly instalments in case the applicant is in service. In our view this would meet the ends of justice. Original Application stands disposed of accordingly. No costs.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (J)