

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 513 of 2003

Jabalpur, this the 26th day of August, 2003.

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

Manoj Goyal aged about 35 years  
S/o Shri Mahendra Kumar Gupta,  
Deputy Chief Electrical Engineer  
(H.Q) West Central Railway  
Jabalpur, resident of Room No. 210,  
Hotel Samdariya, Napier Town Jabalpur  
(M.P.)

APPLICANT

(By Advocate - Shri L.S. Rajput)

VERSUS

1. Union of India & Others, Through  
The Secretary, Ministry of Railway,  
(Railway Board) Rail Bhawan,  
New Delhi.

2. The General Manager,  
Central Railway,  
Mumbai-CST (Maharashtra)

3. The General Manager,  
West Central Railway,  
Near Railway Station, Indra Market,  
Jabalpur (M.P.) 482001.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R (ORAL)

By Anand Kumar Bhatt, Administrative Member -

The present Original Application is against the recovery of the damage rent and refusal to extend the permission granted for retention of the Railway Quarter occupied by the applicant vide orders dated 27.06.2003 (Annexure A-1) and dated 21.07.2003 (Annexure A-1(a) respectively.

2. The facts of the case in brief are that the applicant was allotted a Railway Quarter in Dadar-Parel Colony at Mumbai, while working as Divisional Electrical Engineer (TRS) Sanpada on Central Railway. Vide order

dated 16.10.2002 (Annexure A-2) the applicant was transferred to Bhusawal and he was relieved on 14.11.2002. The applicant applied for retention of the Railway Quarter at Mumbai and he was granted permission to retain the above quarter upto 31.05.2003, vide order dated 17.01.2003 (Annexure A-3). He was transferred from Bhusawal to Nagpur vide order dated 27.01.2003 (Annexure A-4) and this order was modified latter, whereby he was transferred to Itarsi on 22.02.2003. He joined at Itarsi on 03.03.2003. At Itarsi he was allotted a Railway Quarter on 24.03.2003 which he vacated on 24.05.2003 due to his another transfer from Itarsi to Jabalpur in the newly formed West Central Railway Zone. He represented to the competent authority to further retain the quarter at Mumbai for a period of one year beyond 31.05.2003. However the Railways ~~Board~~ did not agree to the request and damage rent was levied on him with effect from 01.06.2003. The learned counsel for the applicant stated in his oral submission that now the applicant has been transferred back to Mumbai, where he has joined on 25.08.2003. He has requested that looking to his frequent transfer and in view of the letter of the Railway Board dated 02.09.2002 (Annexure A-9), wherein it has been decided that for officers/staff posted to new Zones/Divisions, they can retain the Railway Quarter at the previous place of posting for a relief of the official from the old posting or till a Railway quarter is allotted at the new Zone or leased accommodation is arranged by the officer whichever is earlier, no recovery of damage rent is to be made from him. He has also stated that within a period of 6 months the applicant was transferred from Mumbai to

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Bhusawal, to Nagpur, to Itarsi, to Jabalpur and back to Mumbai. Therefore the retention of quarter at Mumbai should not be treated as unauthorised occupation. In view of applicant's transfer back to Mumbai the quarter retained by him should be allotted to him and the period from 01.06.2003 to 24.08.2003 should be on normal rent.

3. The respondents have stated that the applicant was granted permission up to 31.05.2003. Further retention was not permitted and therefore the retention beyond the permissible period is unauthorised occupation <sup>and</sup> for which damage rent is to be paid. The applicant cannot take the benefit of the Railway Board's letter dated 02.09.2002 (Annexure A-9) for retention of the quarter at Mumbai, as this benefit could be availed to him only for retention of quarter at Itarsi.

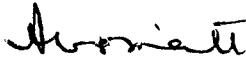
4. We have seen the pleadings and heard the counsel on both the sides.

5. It is seen that the applicant has been subjected to frequent transfers and as per instructions issued by the Ministry of Railway in their letter dated 15.01.1990 which has been quoted by the respondents in para 2, reply to para 4.4, the total period permissible for which the quarter can be retained is for a period of 2 months on payment of normal rent and a further period of 6 months on payment of special licence fee i.e. double the flat rate of licence fee. Further extension can be granted on educational ground only to cover the current academic session on payment of special licence fee. Thus normally 8 months period can be given for retention of quarter to

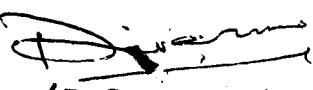
a Railway Official. In the present case the applicant on transfer was allowed to retain the quarter from 14.11.2002 to 13.01.2003 on payment of normal rent ~~on transfer~~  
~~account~~ and from 14.01.2003 to 31.05.2003, <sup>up</sup> ~~to end of~~ academic session on payment of special licence fee on education ground of wife. He has been posted back to Mumbai and has joined there on 25.08.2003. However he did serve at the Zonal Headquarter of the Jabalpur and he has requested for the benefit of Ministry of Railway's order dated 02.09.2002 (Annexure A-9), whereby the retention at the previous place of posting can be allowed for a period of one year. The statement of the respondents that the applicant was transferred to Jabalpur from Itarsi only and he can avail this facility for retention of quarter at Itarsi only and not at Mumbai, seems too technical <sup>in</sup> ~~in~~ not taking the order dated 02.09.2002 in its true spirit.

6. Taking into consideration the above facts and the applicant's frequent transfers, we find it proper to quash the orders dated 27.06.2003 (Annexure A-1) and 21.07.2003 (Annexure A-1(a) and therefore ordered accordingly. The applicant will pay the special licence fee i.e. double the flat rate of licence fee for retaining the quarter beyond the period of 2 months. It is further ordered that as the applicant has been transferred back to Mumbai and has joined there on 25.08.2003, the said accommodation be re-allotted to him from that date on normal tariff.

7. With the above observations the original Application is allowed. No costs.

  
(Anand Kumar Bhatt)  
Administrative Member

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