

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 609 of 2003

Jabalpur, this the 29th day of September, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member  
Hon'ble Shri G. Shanthappa, Judicial Member

S.P. Trivedi, s/o. Shri Motilal  
Aged about 68 years, R/o Pujaryna  
Mohhala, Post-Prithvipur, Distt.-  
Tikamgarh (M.P.).

... Applicant

(By Advocate - Shri A.K. Tiwari)

V e r s u s

1. Union of India,  
through its General Manager,  
West-Central Railway, Jabalpur.

2. Divisional Railway Manager,  
West-Central Railway, Bhopal.

3. Senior Divisional Personnel Officer,  
West-Central Railway, Bhopal.

... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R (oral)

By Anand Kumar Bhatt, Administrative Member -

This Original Application is about quashing of the show-cause notice for recovery of damage rent from the dearness relief of the pension of the applicant.

2. The facts of the case in brief are that this is a third round of litigation. The applicant had first come to the Tribunal in OA No. 378/1996, in which order was passed on 11.09.1997 directing that the respondents shall consider waiving of the damage rent in the special circumstances of the case. The applicant had come again in OA No. 29/2000 in which a decision was passed on 17.01.2000. The order in the said OA was that the respondents may take action against the applicant for eviction of the quarter and impose market rent/penal rent, as per rules, which may be deducted from the gratuity and the balance gratuity amount should be paid.

3. Mr. Banerjee the learned Standing counsel for the Railways has stated that the ADRM had issued the orders for implementing the order. The damage rent can be condoned only by the Railway Board and as such the case was to be referred ~~by~~ <sup>to</sup> the Railway Board. However the lower authorities waived of the damage rent and the balance gratuity amount was released after implementing the order of the Tribunal in the OA. Later on this order was reviewed as it was found to be incompetent and a show cause notice has been given for recovery of the damage rent (Annexure A-1).

4. We have heard the counsel on both the sides and have perused the pleadings of the case.

5. As per the Tribunal order, waiving of the damage rent had to be considered <sup>but it can be</sup> by the competent authority. However it seems that the matter was not referred to the Railway Board. Shri Banerjee has informed that the damage rent can be waived only by the Railway Board and not by any other authority. The correct procedure was to be followed in this case. The case for waiving of the damage rent as per the direction of the Tribunal was to be referred to the Railway Board and after the order of the Railway Board, necessary action should have been taken. This does not seem to be the case here. Under the circumstances we propose to quash the recovery order dated 24.06.2003 (Annexure A-1). It is ordered accordingly. Any advise given to the Bank in accordance with the said show-cause notice shall also be withdrawn by the competent authority. The respondents shall refer the case for waiver of the Damage Rent as per directions of the Tribunal to the Railway Board and they will be at liberty to take further necessary action for recovery <sup>of the damage rent from the pensioner,</sup> if it is permissible under the rules.

6. In the result the Original Application is allowed. No costs..

G. Shanthappa

(G. Shanthappa)  
Judicial Member

Anand Kumar Bhatt

(Anand Kumar Bhatt)  
Administrative Member

प्रांतकान सं. ओ/क्या. 2662  
"SA" - यादिविनिधि अन्वेतानि - जबलपुर, दि.....  
(1) राम नाथ रायकर वार नामोदेशाप्प, जबलपुर  
(2) वार नामोदेशाप्प, जबलपुर  
(3) वार नामोदेशाप्प, जबलपुर  
(4) वार नामोदेशाप्प, जबलपुर

A. K. Dwarakadhe  
M. A. Dwarakadhe

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