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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 69 of 2001

Jabalpur, this the 17th day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Doodh Nath Singh, S/o. Late Gopal
Singh, aged about 53 years, Now working
as Press Operator, Ticket No. : 7016/
Press Shop, Gun Carriage Factory,
Jabalpur, Residence of Village : Ghana,
District & Tahasil : Jabalpur, M.P. ... Applicant

(By Advocate - Shri K. Datta)

V e r s u s

Union of India, through the
Secretary, Deptt. of Defence
Production, Ministry of Defence,
New Delhi.

2. The General Manager, Gun
Carriage Factory, Jabalpur, M.P.
3. The General Manager, Ordnance
Factory, Khamaria, Khamaria,
Jabalpur, M.P. ... Respondents

(By Advocate - Shri B.da.Silva)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

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

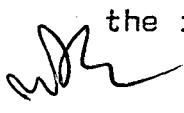
"(i) the Honourable Tribunal be kind to stop
illegal and un-authorised deductions of pay by
passing appropriate order to the respondents.
Further to hold that the General Manager has no
right to pass such order of deduction which is
amounted to modification of reviewing order."

2. The brief admitted facts of the case are that the
applicant ~~was~~ working as a Danger Building Worker in
Ordnance Factory Khamaria was dismissed from service with
effect from 14th March, 1992. The applicant has filed a
revision petition and the revisional authority has modified
the punishment from dismissal to compulsory retirement.

Thereafter the applicant has filed another review application to the Hon'ble President of India. The Hon'ble President in exercise of power under Rule 29-A of the CCS (CCA) Rules, 1965 has moderated the penalty of compulsory retirement from service to that of "reduction to the lower post of Labourer (Un-skilled) untill he is found fit by the competent authority to be restored to higher post of Semi Skilled grades." ~~It was also mentioned in the said order that~~ accordingly the applicant will be reinstated in service in the grade of Labourer (Unskilled) and the period of his dismissal i.e. 14th March, 1992 till he rejoins his duty on re-instatement will be treated as dies non. When the applicant was compulsorily retired from service he was paid the pensionary benefits. The respondents then started recovering the amount of pensionary benefits already paid to the applicant and also penal rent for the period he stayed in the Government accommodation from 1992 to 1998. The learned counsel for the applicant submits that the amount of pensionary benefits paid to the applicant has been settled. The respondents have now started making recovery of the penal rent for the above mentioned period. Aggrieved by this the applicant has approached this Tribunal by filing this Original Application and claiming the aforesaid relief.

3. Heard the learned counsel for the parties and perused the records carefully.

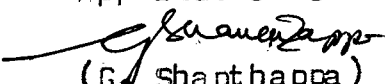
4. The learned counsel for the respondents submitted that they have already initiated proceedings under the Public Premises Act, and for which they have charged the penal rent. The penal rent imposed on the applicant is amounting to Rs. 32,825/-. This has already been recovered from the retiral dues of the applicant. It is only against the recovery of the penal rent that the applicant has

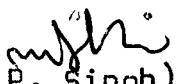


filed this Original Application and has sought direction to the respondents not to recover the penal rent and recover only normal rent for the aforesaid period. He has also requested that the amount recovered in excess of normal rent be returned to him.

5. We have very carefully considered the rival contentions made on behalf of both the parties. We find that the eviction proceedings have already been initiated against the applicant by the Estate Officer which is a quasi-judicial body. The order of the Estate Officer, which is a quasi-judicial body can be challenged only before the District Judge. The District Judge has also confirmed the order of the Estate Officer. In any case this Tribunal is not the forum for challenging the order passed by the Estate Officer. This position is clarified by the Hon'ble Supreme Court in the case of Union of India Vs. Rashilaram, 2001(10) SCC 623. However we find that this Tribunal vide its order dated 30th June, 1993 in OA No. 452/1993 has directed the respondents not to evict the applicant from the premises till decision is taken in the review petition. The applicant has retained the Government accommodation till his review petition was decided by the respondents and immediately thereafter he has vacated the Government accommodation. The order of the Estate Officer is not challengable before the Tribunal. However we may observe that a lenient view may be taken on the representation if any filed by the applicant for waiving the penal rent, as he has been ^{already} reinstated in service.

6. With the aforesaid observation the Original Application stands disposed of. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman