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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 252 of 1998

Jabalpur, this the 31st day of January, 2003.

Hon'ble Mr. R.K. Upadhyaya, Member (Administrative)

Iftekhhar Ali, aged about 44 yrs, S/o Shri Saiyad
Liyakat Ali, Head Trains Clerk, Railway Control
Office, Jabalpur.

- APPLICANT

(By Advocate - M. Qasim)

VERSUS

1. Union of India through Secretary Railways,
New Delhi.

2. Divisional Railway Manager (Operating)
Quarter D.R.M. Office, Jabalpur.

- RESPONDENTS

(By Advocate - Shri S.P. Sinha)

ORDER

The applicant has challenged order dated 28.7.1997 (Annexure-A-1) by which he has been allotted alternative railway accommodation. He has also challenged the circular letter of respondent no. 2 dated 4.9.1997 (Annexure-A-2) by which it has been stated that persons occupying the damaged quarters, on account of earth quake, were to vacate the same and shift to the alternative accommodation. The applicant has also challenged notice dated 13.1.1998 (Annexure-A-3) by which he has been asked to vacate the quarter occupied by him within 10 days.

2. The learned counsel of the applicant stated that the quarter occupied by the applicant was in good condition. However, he has been charged penal rent of Rs. 1103/- from the pay of March, 1998, as per copy of the pay slip Annexure-A-5. Further recovery of the penal rent was stayed by this Tribunal vide order dated 15.6.1998. The learned counsel further stated that the ~~period for which~~ penal rent is proposed with effect from 31.1.1998 to 9.2.1999. According to the learned counsel, no penal rent is required to be charged in view of the fact that the applicant has already

vacated the quarter on 9.2.1999.

3. The learned counsel of the respondents stated that the applicant was provided an alternative accommodation as a temporary measure. Therefore, not vacating the subject accommodation requires him to pay penal rent. Therefore, this Tribunal should direct the applicant to pay the penal rent as per orders of the department.

4. After hearing the learned counsel of both the parties and after perusal of records, it is noticed that the subject quarter was badly damaged and was proposed for dismantling as per report of the Engineer dated 17.7.1998 (Annexure-R-1). It is further observed from the records of this Tribunal that in similar cases, this Tribunal had taken a view that the quarters which required to be demolished or repaired were to be vacated within a month from the date of receipt of the ^{Tribunal's} order. As can be seen from the order dated 16.7.1999 passed in O.A.198 of 1998, M.K. Ahirwar & 7 others Vs. Divisional Railway Manager & anr., this Tribunal had taken a view that no penal rent was to be charged if the railway quarter was vacated within one month from the date of receipt of a copy of the order of this Tribunal.

4.1 Respectfully following the view taken by this Tribunal in the case of M.K. Ahirwar (supra), it is ordered that the present applicant may also not be charged penal rent on the peculiar facts of this case. It is noticed that the applicant has already vacated the railway quarter on 9.2.1999, therefore, the question of vacating the same within one month from the date of receipt of a copy of this order does not arise. The orders asking the applicant to pay damage rent are, therefore, quashed. Any damage rent recovered from the applicant should be refunded to him, without interest, within a period of two months from the date of receipt of a copy of this order.

Contd.....3/-

5. In view of the direction contained in the preceding paragraph, this Original Application is allowed, without any order as to costs.

(Signature)

(R.K. Upadhyaya)
Member (Adminv.)

rkv.

पृष्ठान्त सं ओ/न्या..... जयपुर, दि.....
प्रतिनिधि अर्थात्:

- (1) सहायक जज (अधीनस्थ) जयपुर
- (2) सहायक जज (अधीनस्थ) जयपुर
- (3) सहायक जज (अधीनस्थ) जयपुर
- (4) सहायक जज (अधीनस्थ) जयपुर

I. Hussain Balle
SP Sinha Balle

(Signature)
4/7/03

Issued
on 4-2-03
BS