

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. No. 267 of 2000

Jabalpur, this the 19th day of February, 2004

HON'BLE SHRI M.P.SINGH, VICE CHAIRMAN  
HON'BLE SHRI G.SHANTHAPPA, MEMBER (J)

Chhotelal, aged about 41 years,  
S/o late Mahadeo, employed as  
Sweeper in the office of Senior  
Health Inspector, Central Railway  
Satna, resident of Rly. Quarter  
No. J-49/E, Near Shankarji Mandir,  
Rly. Colony, Satna (MP).

...Applicant

(By Advocate: Shri Ramesh Shrivastava)

-versus-

1. Union of India through  
Secretary,  
Ministry of Railway,  
Rail Bhawan,  
New Delhi.
2. Divisional Rail Manager,  
Central Railway,  
Jabalpur.
3. Assistant Engineer (M)  
Central Railway,  
Satna (MP).
4. Senior Health Inspector,  
Central Railway Satna  
Satna (MP).

...Respondents

(By Advocate: Shri S.P.Sinha)

ORDER (ORAL)

By G.Shanthappa, Judicial Member -

By filing this O.A. the applicant has sought the following reliefs:

- i) That the cancellation order of the allotted quarter of the applicant may kindly be quashed.
- ii) That recovery order contained in order dated 2.12.1998 (Annexure A-1) may kindly be quashed.

2. The brief facts of the case are that the applicant was allotted railway quarter No. J-49/E. The applicant

*cf.*

is living in the said quarter for the last 9 years and he was paying the rent regularly. The respondents have issued the order dated 2.12.1998 for recovery of damage rent on the ground that the said quarter has been occupied by an unauthorised person. The applicant submitted his representation against the said order. The case of the applicant is that the applicant ~~had~~ not sub-letted the quarter, ~~hence~~ the allotment order of the applicant has been cancelled ~~and~~ and he is being termed as unauthorised occupant, which is highly illegal. The applicant never sub-letted the quarter but <sup>in fact</sup> ~~he~~ is living in the said quarter with his family. Vide order dated 20.10.1997, the 4th respondent issued the communication that the quarter allotted to the applicant has been cancelled. The applicant has submitted his representation against the said cancellation order of the allotment. The alleged damage rent has been started deducting @ Rs. 1103/- per month in addition to the normal rent of Rs. 25/- from the salary of the applicant. It is further submitted by the applicant, that the respondents have issued the said orders without making enquiries and without giving an opportunity of hearing. Hence, the impugned orders passed by the authorities are illegal and are liable to be quashed.

3. The respondents have filed their reply stating that the applicant did not inform the department about the fact that the quarter allotted to him is being occupied ~~a show cause notice was issued, why~~ by some other person, hence ~~the~~ the allotment of the quarter shall not be cancelled and the same was communicated to the applicant. The applicant has received the said ~~notice~~ and after receipt of the said ~~notice~~ he had submitted his reply to the show cause notice. The respondents have examined the notice and the submissions of the applicant and passed the order of cancellation of allotment of the

*egs.*

on 20.10.97 quarter. The applicant has approached this Tribunal after a lapse of inordinate delay without filing an M.A. for condonation of delay. Hence, on this ground alone, the O.A. is liable to be dismissed as not maintainable. Earlier the applicant had approached this Tribunal by filing OA No. 67/2000 which was dismissed as withdrawn on 7.2.2000 with liberty to file a fresh O.A. Accordingly, fresh O.A. i.e. OA No. 267/2000 has been filed alongwith MA for condonation of delay.

4. We have heard the learned counsel for the parties and have perused the pleadings and other documents available on record.

5. The grievance of the applicant is that the recovery of penal rent is being made from his monthly salary for that he has produced his salary slips. Since the applicant has been occupying the quarter subsequent to its cancellation, he is supposed to pay the penal rent on market rates. On the basis of the information/received and ascertained from the sources and after issuing the notice to the applicant, the competent authorities cancelled the allotment of quarter. Since the penal rent is being recovered from the monthly salary of the applicant, the Tribunal cannot interfere with the orders passed by the competent authority. If the applicant is aggrieved by the said order, he should approach the authorities concerned. At this stage, learned counsel for the applicant has submitted that if the applicant is directed to approach the authorities by making a representation, the applicant will be satisfied. Accordingly, we direct the applicant to make a fresh representation to the respondents making his grievances, within one month from today and if the applicant complies with the above directions, the respondents are directed to consider his representation and take a decision by passing a speaking, detailed and reasoned order

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within a period of three months from the date of receipt  
of such representation.

6. With the above directions, the O.A. is disposed of.  
No costs.

(G.Shanthappa)  
Judicial Member

*W.H.*  
(M.P.Singh)  
Vice Chairman

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