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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 327/1998

J.K. Tripathi, S/o. Sri K.N.  
Tripathi, Pharmacist Gr. III,  
C. Rly. Hospital, New Katni  
Junction, Katni, M.P.

... Applicant

V e r s u s

1. The Union of India, (through)  
The General Manager, C. Rly.,  
Mummai, Maharashtra State.
2. Divisional Railway Manager (P)  
(Med.), Central Railway, Jabalpur.
3. The Medical Superintendent,  
Central Railway, New Katni Jn.  
P.O. Katni, Jabalpur, M.P.

... Respondents

Counsel :

Shri M.R. Chandra for the applicant.  
Shri S.P. Sinha for the respondents.

Coram :

Hon'ble Shri R.K. Upadhyaya -- Member (Admnv.).

O R D E R (Oral)  
(Passed on this the 30th day of January 2003)

The applicant has filed this application assailing the order dated 07/04/1998 (Annexure A/1) by which the applicant has been asked to pay damage rent at the rate of Rs. 1,400/- per month in respect of sub-letting of the residential quarter bearing No. RBII/143/D, Katni. It is claimed by the applicant that the subject quarter has been allotted some time in the year 1995 while the applicant was posted at Katni. It appears that some survey team visited the residential quarters and in consequence of the report of the team, notice dated 25/04/1997 (Annexure A/5) was issued, asking the applicant to vacate the subject quarter as one/tenant Shri D.K. Shukla was found in the Railway quarter. The learned counsel of the applicant stated that

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subsequently the quarter was also required to be vacated on account of repair due to damage on account of severe Earthquake. He placed reliance on letter dated 11/03/1998 (Annexure A/11). He stated that there was no case of sub-letting so far as the subject quarter is concerned. According to the learned counsel of the applicant inspite of that finding, the impugned order dated 07/04/1998 (Annexure A/1) has been issued. Even this, the enquiry order states that enquiry is still going on. It is informed that recovery at the rate of Rs. 1,400/- per month has been made from the pay slip of September 1997, February 1998, March 1998 and April 1998. However the recovery was stayed by the order of this Tribunal dated 29/04/1998.

2. The learned counsel of the respondents invited attention to the reply filed in which it has been stated that on account of general complaint that employees have sub-letted their quarters a survey team was constituted. In this case/<sup>when</sup> the team inspected the house one Shri D.K. Shukla was found living in the quarter as sub-tenant. In view of the fact that the premises were sub-letted the allotment stood cancelled and notice dated 25/04/1997 (Annexure A/5) was issued asking the applicant to vacate the same within 15 days. The applicant was subsequently asked to substantiate the proof of his living during the period with documents such as Gas Delivery Receipt, Bank Pass Book or other documents, but the same has not been produced and damage rent has properly been levied.

3. Heard learned counsels of both the parties and perused the material available on record. It is regretted that neither the learned counsel of the applicant nor the

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learned counsel of the respondents are posted with full details regarding the present status of the enquiry as communicated in the impugned order dated 07/04/1998 (Annexure A/1). It is also not known whether the applicant is vacated the quarter or/still continuing. It was also noticed that the date from which <sup>it</sup> was vacated was also not known. In the peculiar facts of this case, without expressing any opinion on the merits of the claim of the applicant, it is desireable that the applicant makes a fresh representation stating his full case within one month from the date of receipt of copy of this order to respondent No. 2. The applicant may state as to why he considers that the subject quarter is in his use and possession and not sub-letted. He may also submit proof to substantiate his claim alongwith his representation. In case the applicant complies with the above direction, the respondent No. 2 is directed to dispose of the representation of the applicant within a period of three months from the date of its receipt by speaking order. It may be relevant to mention that respondent No. 2 may also take account into any enquiry which was stated to be continuing as per letter dated 07/04/1998 (Annexure A/1). However before drawing any adverse inference, respondent No. 2 is directed to give adequate opportunity of being heard to the applicant. The order passed by respondent No. 2 may be communicated promptly to the applicant. The interim order dated 29/04/1998 will stand vacated. However no recovery should be made unless an order as directed is passed by respondent No. 2 personally or through an officer authorised by him within the said period of three months. If it is found that the applicant had not sub-letted the quarter allotted to him, any recovery made should be refunded to him within two months from the date of such order by

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respondent No. 2 or by any officer authorised by him without any interest.

4. In view of the direction in the preceding paragraph this original Application is disposed of, without any order as to cost.

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(R.K. UPADHYAYA)  
MEMBER(A)