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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 352 of 1998

Jabalpur, this the 31st day of January, 2003

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

Janardhan Prasad Shukla, S/o Shri U.S. Shukla,
aged 39 years, Passenger Driver, resident of
F/29-A, South Civil Lines, Upper Line, Jabalpur- APPLICANT

(By Advocate- Shri V. Tripathi)

Versus

1. Union of India through the Secretary,
Ministry of Railway, Railway Board, New Delhi.

2. The Divisional Railway Manager, Central Railway,
Jabalpur. - RESPONDENTS

(By Advocate- Shri S.P. Sinha)

ORDER

By the present application, notice dated 27.3.1998 (Annexure-A-1) as well as order dated 17.4.1998 (Annexure-A-2), giving temporary allotment of railway quarter to the applicant, have been assailed.

2. It is stated that the applicant while working on the post of Passenger Driver was allotted railway quarter No. F.29-A, Jabalpur from 15.5.1992. On account of earthquake on or about 22.5.1997, the railway quarters at Jabalpur got damaged. Therefore, the respondent no. 2 issued impugned order dated 27.3.1998 (Annexure-A-1) asking the applicant to vacate the allotted quarter temporarily for three months and for that duration the applicant was allotted another quarter by order dated 17.4.1998 (Annexure-A-2). It is stated by the learned counsel of the applicant that the applicant's quarter was not in the list of damaged quarters as can be seen from the official records dated 28.5.1997 (Annexure-A-5). The alternative accommodation which was allotted to the applicant was not of entitled category. He also stated that recovery of damage rent of Rs. 4977/- was effected from the pay of April, 1998 and by order dated 8.5.1998 passed

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by this Tribunal as an interim measure, subsequent recovery was stayed. The learned counsel further stated that subsequently the applicant has vacated the railway quarter and shifted to his personal accommodation. According to him, on the facts of this case, no damage rent should be charged and the recovery already made should be refunded.

3. The learned counsel of the respondents stated that it was in the interest of the applicant himself that the damaged accommodation was to be repaired and the alternative accommodation may not be of entitled category but the same was a temporary arrangement only for three months. Therefore, no objection should have been taken. According to the learned counsel, the applicant having not complied with the order for vacating the accommodation, is liable to pay the damage rent.

4. After hearing the learned counsel of both the parties and after perusal of the records made available at the time of hearing, it is noticed that the learned counsel of the respondents has not been fully briefed by the respondents. There is nothing on record as to suggest what is the date of vacation of the railway accommodation. There is also nothing on record to suggest as to for which period the respondents want to charge damage rent. It is advisable that respondent no.2 make suitable arrangement to brief his counsel with the details of each case. However, from the records of this Tribunal, it is noticed that similar matters were agitated in this Tribunal earlier also in which the same impugned order was challenged and this Tribunal in O.A.No.198 of 1998, M.K.Ahirwar & 7 others Vs. Divisional Railway Manager, Central Railway, Jabalpur & anr. Decided on 15.7.1999, ordered that no penal rent should be charged if the accommodation was vacated within one month from the date of order.

4.1 Respectrully following the decision of this Tribunal in the case of M.K.Ahirwar(supra), no dam

directed to be charged from the applicant in this case also, as the applicant has already vacated the railway quarter before the decision of this O.A.. The damage rent already recovered from the applicant may be refunded to him without interest within a period of two months from the date of receipt of a copy of this order.

5. In view of the decision in the preceding paragraph, this O.A. is allowed without any order as to costs.

(Signature)

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

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पृष्ठकन सं ओ/वरा..... जयपुर, दि.....

(1) ...

(2) ...

(3) ...

(4) ...

सूचना एवं ओ/वरा.....

V. Jaispathi A.C.N.

S.D. Sinha A.C.N.

(Signature)
4/7/03

Issued
On 4-2-03
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