

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 388 of 1999

Jabalpur, this the 3rd of November, 2003.

Hon'ble Mr. M.P. Singh, Vice Chairman

M.H.B. Jury S/o Late Mirza Hafeez Baig
Driver, Mail, Central Railway,
Jabalpur.

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
through General Manager,
Central Railway, Bombay VT

2. Divisional Railway Manager,
Central Railway, Jabalpur

RESPONDENTS

(By Advocate - Shri S.P. Sinha)

O R D E R (ORAL)

None is present for the applicant. As this is an old case of the year 1999, it is being disposed of by invoking provisions of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. In this Original Application the applicant has prayed for a direction to the respondents to refund the damage rent recovered from the applicant with interest.

3. The brief facts of the case are that the applicant was earlier working as Fitter Grade-I and in due course he was promoted as Mail Driver. He was allotted a railway quarter No.F/129 at Jabalpur. The Jabalpur city was rocked by a severe earth quake on 22.5.97 which damaged thousands of house in this city. Many railway quarters were also severely damaged and needed heavy repairs which could not have been done during the occupancy of the employees. The quarter no.F/129 in occupation of the applicant was also severely damaged and needed immediate major repairs. The repair of this quarter could not be done until the same was vacated.

Contd....2/-

In October, 1997 the applicant was asked to vacate the quarter but he could not vacate the same on the ground of illness of his wife. By order dated 13.1.1998 the respondents had temporarily allotted a house to the applicant till the quarter no.F/129, which was in occupation of the applicant was repaired. The applicant did not occupy the said quarter which was allotted to him temporarily. He was given a show cause notice on 3.2.1998 informing him that if he fails to vacate the quarter he would be liable to pay the damage rent. The applicant did not vacate the quarter occupied by him in spite of allotment of another railway quarter. Hence an amount of Rs.5837/- as damage rent was deducted from his salary. After recovery of the damage rent, he vacated the quarter on 21.5.1998. After the vacation the quarter was repaired and on completion it was allotted to the applicant again on 23.9.1998 and occupied by him on 26.9.1998. The respondents have stated that the applicant was liable to pay damage rent from 3.3.1998 to 21.5.1998 amounting to Rs.17,767/- against which only Rs.5837/- has been recovered. The applicant had made representations to exempt him from charging the damage rent but his request for waiving off the damage rent has not been accepted by the respondents. Hence he has filed this application and claimed the aforesaid relief.

4. Heard the learned counsel for the respondents and perused the record.

5. The applicant in his OA has taken a ground that certain similarly placed persons were exempted by the respondents from paying the damage rent, and this action on the part of the respondents is discriminatory and violative of Articles 14 & 16 of the Constitution of India.

6. In the case of M.K.Ahirwar & 7 others Vs. Divisional Railway Manager, Central Railway, Jabalpur & another, O.A.No. 198 of 1998 decided by this Tribunal on 16.7.1999, a similar issue had come before this Tribunal in which also

damage rent to the tune of Rs.5500/- had been ordered to be recovered from those applicants for non-vacation of the railway quarter. After considering the arguments of the parties the Tribunal has held as under-

- "(i)The applicants shall vacate the quarters which is in their respective occupation within a period of one month from the date of receipt of a copy of this order.
- (ii)If the applicants vacate their respective quarters as stated above, in that event no penal rent could be charged from them as contemplated by the respondents.
- (iii)The respondent no.1 i.e. the Divisional Railway Manager, Central Railway, Jabalpur shall make all endeavours in his command to see that the repair works are done in a speedy way.
- (iv) After the repairs, of the quarters which were in the occupation of the respective applicants, are over, then the quarters which were in their respective occupation prior to their eviction and pursuant to the passing of the impugned orders shall be given to them for their occupation as a first choice. If the incumbent concerned does not occupy the same, then it may be allotted to some other persons according to their entitlement and as per the rules".

In the aforesaid case as the applicants had not vacated the quarters, the Tribunal directed that if they vacate the quarter within one month of the order of the Tribunal the penal rent should not be charged from them. In the instant case, the applicant has already vacated the quarter and, therefore, no penal rent should be charged from him, in view of the aforesaid decision of the Tribunal.

7. Accordingly, this O.A. is allowed. The respondents are directed to refund the damage rent recovered from the applicant within a period of one month from the date of communication of this order. However, the applicant is not entitled for any interest on the said amount. In the facts and circumstances of the case, the parties are directed to bear their own costs.

पृष्ठकन सं ओ/न्या.....जबलपुर, दि.....

परिलिपि अद्यो रिक्त :-

(1) सचिव, न्यायमाला न्याय न्याय, जबलपुर

(2) न्यायमाला न्याय न्याय, जबलपुर

(3) न्यायमाला न्याय न्याय, जबलपुर

(4) न्यायमाला न्याय न्याय, जबलपुर

सूचना एवं आवश्यक कार्रवाई हेतु

उप सचिव

(M.P.Singh)
Vice Chairman

Handwritten signature and text in the bottom left corner.