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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH JABALPUR

Original Application No. 398 of 1998

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

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

N.K. Soni, son of Shri Gulab Chand,  
Telephone Operator, Central Railway  
Resident of Rly. Qq. No. G/191/A-  
Twenty Kholi, near Railway ground,  
Jabalpur, M.P.

-APPLICANT

(By Advocate- Mr. Om Namdeo)

Versus

1. Union of India through the  
Secretary, Ministry of Railways,  
Rail Bhawan, New Delhi.
2. Divisional Railway Manager,  
Central Railway, Jabalpur, M.P.
3. Additional Divisional Railway Manager,  
Central Railway, Jabalpur, M.P.

-RESPONDENTS

(By Advocate- Mr. H.B. Shrivastava for  
Mr. S.P. Sinha)

ORDER (ORAL)

The applicant has assailed the order dated 17.4.98  
(Annexure A/7) by which he has been informed that damage  
rent @ Rs.1,962/- per month was to be recovered from  
him w.e.f. 16.9.1997.

2. It is stated that the applicant resided in railway  
quarter No. G/191/A-Twenty Kholi near Railway Ground,  
Jabalpur. Because of severe earth-quake on and around  
22.5.1997, several quarters including the quarter allotted  
to the applicant were damaged. Therefore, a notice  
dated 13.1.1998 (Annexure A/1) was issued to the  
applicant asking him to vacate the railway quarter  
within ten days from the date of receipt of this notice.  
This notice was received by the applicant on 21.1.1998.  
It is stated by the applicant that he was allotted an

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alternative accommodation by order dated 13.2.1998 (Annexure A/3), but he could <sup>not</sup> get possession of the same, because the said accommodation was allotted to Smt. Usha Karunakaran, Clerk, DRM(P) temporarily, but <sup>a</sup> the applicant could not get the possession thereof. Ultimately, the applicant found for himself a private accommodation and vacated the railway quarter allotted to him earlier on 12.5.1998. The learned counsel states that the delay in vacating the quarter was beyond <sup>or</sup> his control and no penal rent should have been charged. There has been a recovery of Rs.1,962/- per month from the applicant, as can be seen from the pay-slip of April, 1998 and May, 1998. Subsequently, the order of recovery was stayed by this Tribunal by order dated 15.6.1998.

3. After hearing the learned counsel for the applicant, and after perusal of the records, it is noticed that large number of railway quarters were damaged on account of severe earth-quake. Therefore, the Railway authorities wanted those to be vacated. In many cases, the railway authority also provided an alternative accommodation. However, in this particular case, no suitable accommodation could be made available to the applicant. In any case, the applicant shifted to private accommodation and vacated the railway quarter on 12.5.1998. In the opinion of this Tribunal, no penal rent should have been recovered from the applicant because of peculiar facts of this case. This Tribunal in OA No.198/1998 in the case of M.K. Ahirwar Vs. Union of India decided on 16.7.1999 have held that if the railway quarter was vacated by the applicant within one month from the date of receipt of copy of the order, no penal rent should be charged. Respectfully following

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the same order, it is held that no penal rent should be charged from the applicant, as he has already vacated the quarter allotted to him on 12.5.1998. Any amount recovered as penal rent from the applicant <sup>or</sup> may be refunded without interest within a period of two months from the date of receipt of this order.

4. In <sup>the</sup> view of the directions in the preceding paragraph, this application is allowed without any order as to costs.

*R.K. Upadhyaya*

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

'MA'

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पृष्ठकन सं ओ/व्या.....जबलपुर, दि.....

प्रतिनिधित्व का संक्षिप्त:-

(1) उपस्थित, उक्त अधिवक्ता वार एजीडेंटेशन, जबलपुर

(2) उपस्थित, उक्त अधिवक्ता वार एजीडेंटेशन, जबलपुर

(3) उपस्थित, उक्त अधिवक्ता वार एजीडेंटेशन, जबलपुर

(4) उपस्थित, उक्त अधिवक्ता वार एजीडेंटेशन, जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

*Prakash*  
उपे सजिस्टर  
5/2/03

em ramdeo, DCLV  
SD Smba, ACLV

Issued  
on 5.2.03  
BS