

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.546 of 1997

Jabalpur, this the 6th day of January, 2003.

Hon'ble Mr. Justice N.N. Singh- Vice Chairman
Hon'ble Mr. R.K. Upadhyaya- Member (Admnv.)

D.D. Ahirwar, son of late Shri Pukhi Ahirwar, aged about 42 years, presently posted as Divisional Commercial Inspector, Guna Railway Station, (Central Railway), Guna, M.P.

-APPLICANT

(By Advocate- Mr. Manoj Sharma)

versus

1. Union of India, through the Secretary, Ministry of Railways, New Delhi.
2. The General Manager, Central Railway, Chhatrapati Shivaji Terminus, Mumbai.
3. Divisional Railway Manager, Central Railway, Bhopal Division, Bhopal, M.P.
4. The Area Manager, Central Railway, Guna, M.P.
5. The Section Engineer (Electrical), Central Railway, Guna, M.P.

-RESPONDENTS

(By Advocate- Mr. A.K. Pathak)

O R D E R

By R.K. Upadhyaya, Member (Admnv.):

The applicant is aggrieved by deduction from his salary on account of penal rent of quarter No.T/82/A (III) as well as deduction on account of penal rate of electricity bill.

2. It is claimed by the applicant that while posted as Commercial Inspector at Guna Railway Station, he was duly allotted railway quarter No.T/82/A, which belongs to Commercial Pool at Guna. The learned counsel stated that earlier this quarter was ear-marked for Commercial Inspector

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while Guna was within the jurisdiction of Kota Division. With the coming into existence of Bhopal Division, Guna came into its jurisdiction. The applicant was posted at Guna Railway Station as Commercial Inspector on 14.10.1987. The said railway quarter was earlier occupied by Commercial Inspector (Path Way Inspector) of Kota Division. This occupation was unauthorised in as much as the previous occupant Shri Hardeep Singh was given show-cause notice dated 20.9.1990 (Annexure A/1), which clearly indicates that the aforesaid accommodation was of Commercial pool at Guna. The notice specifically stated "..... to kindly vacate the said quarter within 15 days so that the Commercial Inspector, C.Rly., Guna may be allotted the same quarter." The claim of the learned counsel of the applicant is that the previous applicant Shri Hardeep Singh had filed a petition before the Central Administrative Tribunal at Jabalpur being OA No.710 of 1991. In this case before the Tribunal, the stand taken by the authorities was that the quarter being ear-marked quarter is required for being allotted to the applicant. In this connection, a reference was invited to para-wise comments dated 14.11.1991 (Annexure A/2) sent to the Divisional Engineer (N), Bhopal. In this correspondence, it is specifically mentioned that "..... the said quarter is commercial pool quarter and ear-marked for Commercial Inspector at Guna." This Tribunal by an order dated 6.2.1992 rejected the OA No.710/1991 filed by the earlier occupant Shri Hardeep Singh. The learned counsel further invited attention to letter dated 14.7.1988 (Annexure A/5) written by the Senior D.C.S., Western Rly., Kota, which also indicated that "the present C.M.I. Guna has admitted his children to Central School, Guna....." and the unauthorised occupant Shri Amardeep Singh be

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directed to vacate the same. The learned counsel of the applicant further states that the said accommodation was ultimately vacated on 26.12.1995 and the applicant was directed by the IOW, Guna as per his letter dated 26.12.1995 (Annexure A/7) to occupy the same as this quarter was ear-marked quarter of Chief Commercial Inspector. This letter further says that Assistant Engineer had directed the IOW to hand-over the keys and possession, as "now-a-days Housing Committee is not functioning." The learned counsel stated that the Minutes of Housing Committee Meeting dated 9.3.96 (Annexure A/9) indicate that the applicant was being allotted the premises being at seniority No.1. The claim of the applicant is that he has all along been occupying the subject quarter under instructions of the respondents as regular allottee and the same was not unauthorised occupation. Therefore, the question of any penal rent and damage electricity charges recovery from the applicant does not arise. It was also informed that as per the submissions of the respondents, the quarter was ear-marked for commercial pool w.e.f. 3.1.1997, and the respondents claimed that regular allotment is with effect from that date only. Therefore, penal rent for the period from 26.12.1995 to 30.6.1997 is directed to be recovered from the applicant.

3. The learned counsel of the respondents stated with a lot of force that the occupation of the applicant w.e.f. 26.12.1995 was unauthorised, as the same was not allotted to him. According to the learned counsel of the respondents, IOW, Guna by his letter dated 26.12.1995 (Annexure A/7) was not competent to allot the accommodation to the applicant. He invited attention to the Minutes of Meeting of Housing Committee as recorded and circulated vide letter dated 10.2.1996 (Annexure A/10), which states that the waiting

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list of register of residences is manipulated and pages are removed. It was vehemently urged by the learned counsel of the respondents that the accommodation being not regularly allotted is an unauthorised one, and therefore penal rent is recoverable from the applicant. However, he was fair-enough to state that after regular regularisation of allotment, penal rent is not being charged from the applicant w.e.f. 1.7.1997.

4. We have heard the learned counsel of both the parties, and have perused the material available on record carefully.

5. As per material available on record, the subject quarter No.T/82/A was earlier ear-marked to Chief Commercial Inspector, Guna. Divisional Railway Manager (Commercial), Bhopal vide his letter dated 9.4.1996 (Annexure A/11) addressed to DRM (E), Bhopal has brought-out several facts to justify that the said quarter could be allotted only to the applicant. While justifying this recommendation, he has noticed that this quarter was earlier ear-marked for Chief Commercial Inspector, Guna. Station Suptd., Guna vide his letter dated 11.1.1996 had shown the name of the applicant at Sl.No.1. Earlier, Housing Committee Chairman had prepared a list of quarter in which the subject quarter was shown as ear-marked for Commercial Inspector, Guna. Chairman, Housing Committee, Guna as per letter dated 20.9.1990 mentioned the allotment to Chief Commercial Inspector as per correspondence of the office of Divisional Railway Manager (Commercial), Bhopal to Sr.DRM, Kota. It was requested that the subject residence be got vacated from Shri Amardeep Singh so that the same could be allotted to the Chief Commercial Inspector, Guna. The applicant occupied the subject quarter as per letter dated 26.12.95,

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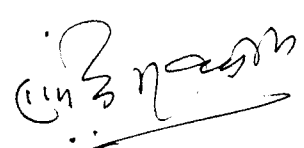
and the applicant duly informed the Divisional Office of having occupied the accommodation. Since the earlier Housing Committee Chairman, retired on 31.10.1995 and the new committee could not be formed upto 2.1.1996. The formalities of allotment could not be completed on time. As per Minutes of the Housing Committee dated 9.3.1996, the subject quarter was allotted to the applicant. For all these reasons, he has recommended that the subject quarter could be regularised in the name of the applicant only, and it has ultimately been so regularised. We are also informed by the learned counsel of the applicant that on transfer from Guna, the applicant has vacated the said quarter on 30.4.2000 as per rules. In our opinion, on the facts of this case, the applicant could not be charged penal rent from the period he occupied the subject quarter on 26.12.1995 till the same is alleged to have been regularised from a date subsequent to 30.6.1997. If the arguments of the respondents are accepted in this case, it will be detrimental to advancement of any substantial justice. In our opinion, the respondents should not have been very hyper technical regarding rules of allotment. The applicant having occupied railway quarter on the advice of the Assistant Engineer and IOW, who are incharge of the accommodation, the same should have been regularised in normal course. Nothing has been placed on record to state that the applicant has usurped the rights of somebody else, who was having better claims than the applicant. If some register was being not properly maintained and pages were being removed, the proper course of action should have ^{been} to take proceeding against the person responsible for doing so. On that account, the allotment of the applicant's quarter cannot be challenged. We hold

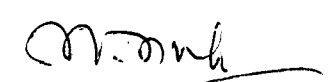
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that no penal rent is recoverable from the applicant for the period he occupied this accommodation wef 26.12.1995 onwards. In view of our decision to treat the allotment as being not unauthorised, question of any charge of electricity bill at rate other than normal does not arise. Any penal rent recovered from the applicant may be refunded to him within a period of three months from the date of receipt of copy of this order by the respondents. If there is any delay beyond three months, the applicant will also be entitled to interest @ 6%.

6. In view of our decision in the preceding paragraph, this application is allowed without any order as to costs.


(R.K. Upadhyaya)
Member (Admin.)


(N.N. Singh)
Vice Chairman

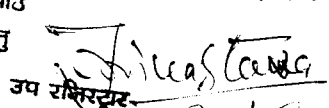
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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्जो धित:-

- (1) सी.एस. जज न्यायालय दार एसोसिएशन, जबलपुर
- (2) ओ.एस.डी.डी.सी/कु.....के काउंसल
- (3) सी.एस.डी.डी.सी/कु.....के काउंसल
- (4) सी.एस.डी.डी.सी, जबलपुर न्यायापीठ

सूचना एवं आवश्यक कार्यवाही हेतु


उप सचिव

21/1/03

Sharma, NLU
K. Pathak, NLU

Issued
on 8.1.03