

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 682 of 2000

Jabalpur, this the 17th day of March, 2003

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

Bhikam Singh, S/o. Shri
Kehari Singh, date of birth
23/02/65, Goods Driver, O/o.
Chief Crew Controller, Central
Railway, Satna (MP).

... Applicant

(By Advocate - Shri V. Tripathi).

V e r s u s

1. Union of India,
through its Secretary,
Ministry of Railway,
(Railway Board),
New Delhi.
2. Divisional Railway Manager,
Central Railway, Jabalpur (MP).
3. Senior Divisional Mechanical
Engineer, O/o. D.R.M., Central
Railway, Jabalpur (MP).
4. Senior Divisional Personnel
Officer, Office of Divisional
Railway Manager, Central
Railway, Jabalpur (MP).
... Respondents

(By Advocate - Shri S.P. Sinha).

O R D E R (Oral)

In this application the applicant has claimed
the following reliefs :

"i. Summon the entire relevant records from
the respondents for its kind perusal;

ii. Consequent upon holding that the imposi-
tion of Penal Rent to the tune of Rs.
4,341/- p.m. against the applicant is bad
in law. Command the respondents to refund
the entire amount to the applicant along-
with interest on delayed payment;

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- iii. Direct the respondents to consider the case of the applicant for permanent absorption unlike Shri Inder Shekhar Chaturvedi at New Katni Junction;
- iv. Any other order/orders/directions which this Hon'ble Court deems fit and proper, may also be passed, in the interest of justice;
- v. Award the cost of the litigation to the applicant."

At the time of hearing the learned counsel stated that he does not want to press relief No. 3 because the applicant has been transferred back to Katni from where he was transferred to Satna earlier.

2. It is stated that the applicant is a Goods Driver and he was transferred from Katni to Satna on administrative ground on account of "his involvement with anti-social elements". He joined in Satna on 31/12/1997. However the Railway quarter No. RB-III/89-A at Katni allotted to him was not vacated inspite of his transfer from Katni. The learned counsel of the applicant stated that the transfer order of the applicant was bad in law. The applicant was given a temporary transfer to Katni. He was relieved on 16/02/1999 from Satna for reporting for duty at Katni on 17/02/1999. He worked at Katni upto 03/06/2000. It is also stated by the learned counsel of the applicant that the applicant applied for retention of the Railway Quarter as per his letter dated 28/01/1999 (Annexure A/8). It is also stated that during his temporary transfer between 17/02/1999 to 03/06/2000 he was not paid full House Rent Allowance/Temporary Allowance. The learned counsel states that no notice for making any recovery of the damage rent was issued and in case there has been no cancellation of the allotment of the Railway quarter at Katni. He also stated that no proceeding for



eviction of the quarter has been started as per provisions of Public Premises (Eviction of Unauthorised Occupants) Act. He placed reliance on the order of Mumbai Bench of this Tribunal in the case of Raveendran, P.N. and another Versus Union of India and others reported at (1997)35ATC233 for his argument that proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, if not initiated for vacation of quarters the notice issued should be held as invalid. Again relying on the decision of the Mumbai Bench of this Tribunal in the case of P.K. Kutty Versus Union of India and others reported at (1994)28ATC622, it was stated that no recovery of damage rent in respect of Government residential accommodation can be made without taking resort to the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

3. The learned counsel of the respondents invited attention to the reply filed in which it has been stated that the applicant was issued notice on 02/11/1998 (Annexure R/II) asking him to explain the unauthorised occupation of the Railway quarter/ accommodation, failing which damage rent was to be recovered and he was also asked to give his clarification within one week as he was staying in the Government accommodation without permission of the competent authority. The learned counsel invited attention to the order of the Allahabad Bench of this Tribunal in the case of Ram Poojan Versus Union of India and another reported at (1996)34ATC434(FB), wherein it has been stated that retention of accommodation after the expiry of permissible/ permitted period of retention by the Railway employees should be deemed to be unauthorised. The Full Bench also held that no specific order cancelling the allotment is necessary. Therefore penal rent can be recovered from

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salary without resorting to proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971. He also placed reliance on the order of Calcutta Bench of this Tribunal in the case of Suda Iswar Rao Versus Union of India and others reported at (1995)29ATC279, wherein it has been held that penal rent can be charged even without formally cancelling the allotment of quarter and recourse to the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was also not necessary.

4. After hearing the learned counsel for the applicant and after perusal of the records made available at the time of hearing, it is noticed that the applicant was relieved from Katni and he joined at Satna on 31/12/1997. He had not secured permission to stay in the Government accommodation being RB-III/89-A at Katni, allotted to him earlier. Therefore he is treated as Unauthorised Occupant and he is liable to pay damage rent for the period of his over-stay. The fact that he was posted on temporary transfer to Katni between the period from 17/02/1999 to 03/06/2000 may be relevant for consideration of the quantum of damage rent, but not for remaining period of his occupation as unauthorised. A plea that the applicant has been transferred back to Katni and is staying in the same accommodation is also of no help to the applicant because nothing has been brought on record about allotment of his quarter at Katni, whether it has been regularised with effect from the date of his transfer from Katni on 31/12/1997. However if the applicant is aggrieved by the quantum of damage rent to be recovered from him, he may make representation to the competent authority. But so far as this original Application is concerned it is held that the applicant is not

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entitled to any — relief as he has continued in possession of the Government accommodation allotted to him at Katni inspite of his transfer from Katni to Satna without any valid order for retaining the said accommodation. In view of the Full Bench decision referred to above and relied upon by the learned counsel of the respondents, it is held that it is not necessary for the respondents to give vacation notice before charging of damage rent. As a matter of fact, Government accommodation is allotted for residence of the employee during his particular ^{or} posting at a/ place. It automatically becomes unauthorised after the period upto which he is authorised to retain the same. In this view of the matter, the applicant is liable to be charged penal/damage rent with effect from 31/12/1997.

5. In the result, this Original Application is dismissed, without any order as to cost. Interim Order of stay dated 11/08/2000 stands vacated.

Chintanacharya
(R.K. UPADHYAYA)
MEMBER (A)

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पत्रिलिपि अद्य दिनांक.....

(1) रसिया, उच्च व्यापारिता, जपान, जपानपुर
 (2) अमेरिका, दक्षिण अमेरिका, जपानपुर
 (3) यूरोपीय, अमेरिका, जपानपुर
 (4) रोमानिया, रूस, अमेरिका, जपानपुर
 सूचना एवं आवश्यकता का बिना

Special Order
S. India. Policy

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Measles
26/3/03