

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

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**ORDER SHEET**

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**ORDERS OF THE TRIBUNAL**

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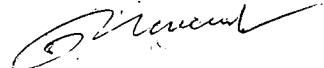
19.12.2007

OA 495/2006

Mr. Anup Agarwal, proxy counsel for  
Mr. Ajay Gupta, counsel for applicant.  
Mr. Anupam Agarwal, counsel for respondents.

Learned counsel for the applicant seeks adjournment on the ground that he is not ready to argue the matter.

List on 5.2.2008.

  
(J. P. SHUKLA)  
MEMBER (A)

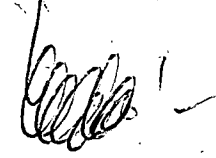
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5.2.2008

Mr. Ajay Gupta, counsel for applicant.  
Mr. Anupam Agarwal, counsel for resps.

Heard the learned counsel for the parties. The on stands disposed of by a separate order.

  
(M.S. Chaudhary)  
M (I)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Jaipur, the 5th day of February, 2008

ORIGINAL APPLICATION NO.495/2006

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER

Kana Ram  
s/o Shri Dula Ram,  
r/o Village Haspur, via Srimadhapur,  
District Sikar (Raj.),  
Presently working as Gateman  
At Gate No.90 under PWI,  
North Western Railway,  
Kanwat,  
District Sikar.

... Applicant

(By Advocate : Shri Ajay Gupta)

Versus

1. Union of India through  
General Manager,  
North Western Railway,  
Hasanpura,  
Jaipur.
2. Divisional Railway Manager,  
North Western Railway,  
Jaipur.
3. Assistant Divisional Engineer (RPC),  
North Western Railway,  
Jaipur.
4. Section Engineer (Railway Path),  
North Western Railway,  
Kanwat,  
District Sikar.
5. PWI-II, North Western Railway,  
Srimadhapur,  
District Sikar.
6. PWI, North Western Railway,  
Kanwat, District Sikar.

... Respondents

(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)PER HON'BLE MR.M.L.CHAUHAN

The applicant has filed this OA thereby praying for the following relief :

- "i) by an appropriate order or direction the impugned order dated 15.11.2006 (Ann.A/1) passed by the Section Engineer (Railway Path), North Western Railway, Kanwat, District Sikar, may kindly be quashed and set aside and the same may be declared null and void.
- ii) by further appropriate order or direction the respondents may be directed not to recover any amount towards quarter rent of railway residence No.G/22/E from the salary of the applicant and the deductions being made from the salary of the applicant towards quarter rent and electricity charges since Feb., 1991 to till date may be refunded back to the applicant alongwith interest @ 24% P.A.
- iii) by further appropriate order or direction the respondents may be directed to pay house rent allowance as well as cycle allowance to the applicant since Feb., 1991 to till date for which he is entitled according to rules."

2. The positive case of the applicant is that on his transfer in February, 1991, he had vacated quarter No.G/22/E and as such it was not permissible for the respondents to make recovery of HRA and electricity charges from the applicant.

3. From the material placed on record, more particularly applicant's representation dated 6.10.94 (Ann.A/5), it is evident that the quarter in question was in the possession of the applicant. In this representation, the applicant has admitted that quarter No.G/22/E remained closed since 23.12.92 as the key of the said quarter was lost by him and the quarter could not be opened thereafter even after a theft of one fan.


4. There is also contemporaneous record, on which reliance has been placed by the respondents to show that the quarter in question was never vacated by the applicant in February, 1991. It is categorical case of the respondents that the applicant never vacated the quarter in question, which resulted in issuing the letter dated 9.3.94 (Ann.R/1), thereby asking the applicant to handover the possession or to vacate the said quarter. Thereafter, the applicant, instead of getting the quarter vacant, entered into correspondence with the respondents and ultimately the respondents, vide impugned order dated 15.11.2006 (Ann.A/1), asked the applicant to vacate the quarter.

5. The applicant has also filed rejoinder. In the rejoinder, the applicant has reiterated that the said quarter was vacated in February, 1991 but strangely in para-7 of the rejoinder, the applicant has taken a stand that the quarter was vacated as per the direction of the higher authority and thereafter he put a lock on it and informed the authority in this respect, who assured that his allotment will be cancelled and his salary roll will be modified accordingly by allowing him HRA as per his entitlement. The stand taken by the applicant in the rejoinder is absolutely contrary to the stand taken by him in his repeated representations, where this fact does not find any mention.

6. Learned counsel for the respondents has brought to my notice copy of the letter dated 5.11.2007, whereby it has been stated that the penal rent against the applicant has now been stopped. He has also brought to my notice copy of the Joint Inspection Report, which shows that possession of the quarter in question has been taken by the authorities on 3.11.2007. These two documents are taken on record.

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7. This Tribunal would have dismissed this OA only on the ground of filing false affidavit by the applicant as he has not approached this Tribunal with clean hands and has taken a specific stand that the quarter was vacated in February, 1991, whereas the representations made by him reveal that the said quarter was not vacated by him rather he was requesting to the authorities to take possession of the said quarter. But instead of taking serious view of the matter, I am of the view that the applicant has failed to substantiate his claim that the quarter in question was vacated in February, 1991. Accordingly, the OA is bereft of merit and the same is dismissed accordingly with no order as to costs.



(M.L. CHAUHAN)  
MEMBER (J)

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