

3

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

---

**ORDERS OF THE BENCH**

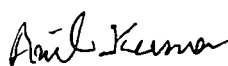
---

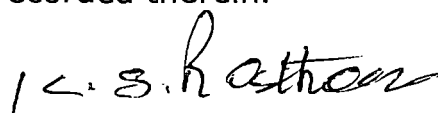
**Date of Order: 11.05.2012**

OA No. 313/2012

Mr. Virendra Lodha, Senior Counsel assisted by  
Mr. Ankit Jain, counsel for applicant.

Heard. O.A. is dismissed by a separate order on the  
separate sheets for the reasons recorded therein.

  
(ANIL KUMAR)  
MEMBER (A)

  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 313/2012

**DATE OF ORDER:** 11.05.2012

**CORAM**

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER**  
**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Mool Chand Rathi, aged about 42 year, S/o Shri Jodha Ram Rathi, R/o III/57, A.G. Colony, Bajaj Nagar, Jaipur (Raj.).

At present posted under transfer as Sr. Accountant to work as Divisional Accountant in the office of Executive Engineer, P.W.D. Division, Mangrol, District Baran on transfer on the way of deputation.

...Applicant

Mr. Virendra Lodha, Senior Counsel assisted by  
Mr. Ankit Jain, counsel for applicant.

**VERSUS**

1. Union of India through Pr. Accountant General (General & Social Sector Audit), Janpath, Rajasthan, Jaipur.
2. Senior Audit Officer (GD-II) C/o office of Pr. Accountant General (General & Social Sector Audit), Janpath, Rajasthan, Jaipur.
3. Estate Officer C/o office of Pr. Accountant General (General & Social Sector Audit), Janpath, Rajasthan, Jaipur.

...Respondents

**ORDER (ORAL)**

This is the third round of litigation. Earlier, the applicant had filed **OA No. 426/2010** before this Bench of the Tribunal praying therein that the respondents be directed to allow the applicant to retain the Quarter No. III/57 situated at A.G. Colony, Bajaj Nagar, Jaipur on payment of market rent during the period he remains on deputation as Divisional Accountant in the office of Executive Engineer, PWD Division, Mangrol, District Baran. Since the representations dated 22.08.2010 and 28.08.2010 filed by the applicant were pending, therefore, this



Bench of the Tribunal vide order dated 31.03.2011 directed the respondents to consider the said representations of the applicant in accordance with the provision of law, with liberty to file substantive O.A.

2. Pursuant to the direction issued by this Bench of the Tribunal, both the representations were considered and the same were rejected and the applicant was directed to vacate the quarter vide order dated 28.04.2011. Aggrieved and dissatisfied with the order dated 28.04.2011, the applicant had preferred **OA No. 182/2011**, and the same has been dismissed vide order dated 27.03.2012., having considered the provision of Allotment of Govt. Residence (IA&AD) Rules, 2006 and, more particularly, clause (iv) of Rule 9.2, and looking to the facts and circumstances of the case that 65 employees are waiting for their turn to get type-III quarter in the colony in 2011 panel, and also considered the fact that the applicant has been relieved and joined the post at new place of posting on 12.07.2010, in such circumstances, this Bench of the Tribunal thought it proper to dismiss the said OA, and accordingly the same was dismissed with no order as to costs.

3. This order dated 27<sup>th</sup> March, 2012 passed by this Bench of the Tribunal in OA No. 182/2011 has been assailed by the applicant before the Hon'ble Rajasthan High Court at Jaipur Bench by way of filing **D.B. Civil Writ Petition No. 6123/2012** with **D.B. Civil Misc. Stay Application No. 5139/2012**, wherein while dismissing the writ petition as well as stay application as withdrawn vide order dated 23<sup>rd</sup> April, 2012, the Hon'ble High Court has observed as under: -



"Learned counsel for the petitioner submitted that after dismissal of the Original Application, he has filed representation before the Director General, which is still pending, therefore, he may be permitted to withdraw this writ petition with liberty to approach the Director General, as his representation is already pending there.

The prayer is allowed. Writ petition as well as stay application, both, are accordingly, dismissed as withdrawn, with liberty, as prayed."

4. Since the representation dated 27.04.2012 filed by the applicant has been decided and rejected vide order dated 04.05.2012 (Annex.) passed by the respondent-department, therefore, the applicant has filed the present Original Application seeking for the following reliefs: -

"It is, therefore, prayed that this Original Application may kindly be allowed and this Hon'ble Tribunal may be pleased to call the entire relevant record pertaining to passing the orders dated 04.05.2012 read with order dated 25.04.2012 and after examining the same be pleased to declare the orders dated 04.05.2012 read with order dated 25.04.2012 null and void and be quashed and set aside.

By an appropriate order or direction, the official respondents be directed to allow the applicant to occupy House No. III/57 situated at AG Colony, Bajaj Nagar, Jaipur on payment of market rental value at least up to 31.03.2013 i.e. up to the end of the session since his two children's are pursuing studies and his old age mother is residing along with them to their extent relief may kindly be granted as prayed for.

Any other order or direction which the Hon'ble Tribunal may deem fit and proper, the same may kindly be passed in favour of the applicant.

Cost of the Original Application may kindly be awarded in favour of the applicant."

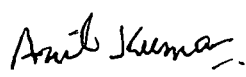
5. We have heard the learned senior counsel Shri Virendra Lodha appearing on behalf of the applicant, and we have also carefully gone through the order passed by the Hon'ble High Court in D.B. Civil Writ Petition No. 6123/2012 with D.B. Civil Misc. Stay Application No. 5139/2012 (supra) and the orders




passed in the earlier OA No. 426/2010 & OA No. 182/2011 (supra), and also the relief claimed by the applicant in the earlier OAs as well as in the present OA. This is the third round of litigation agitating the same issue by the applicant, which has been agitated by him in OA No. 426/2010 & OA No. 182/2011 (supra) and also before the Hon'ble High Court in said Writ Petition, more or less the same relief as has been claimed by the applicant in the present O.A. praying that he may be allowed to retain quarter No. III/57 situated at AG Colony, Bajaj Nagar, Jaipur on payment of rent at the market rate.

6. Since the same relief has already been turned down by this Bench of the Tribunal vide order dated 27<sup>th</sup> March, 2012 passed in OA No. 182/2011, and further the representation, which has been filed by the applicant, has been decided and rejected, the applicant is estopped to challenge the same issue, and as such the present OA is barred by principle of res judicata, and since we have already taken a view rejecting the earlier OA vide order dated 27<sup>th</sup> March, 2012 while passing the order in OA No. 182/2011, we find no new ground in the present OA, which requires any interference in the impugned order, dated 04.05.2012 (Annex. A/1).

7. Consequently, the Original Application being bereft of any merit; fails and is hereby dismissed in limine with no order as to costs.

  
(ANIL KUMAR)  
MEMBER (A)

  
(JUSTICE K.S. RATHORE)  
MEMBER (J)