

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3091/2013

New Delhi, this the 30th day of September, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

V. P. Pachouri,
S/o Shri Shiv Ram Pachouri,
R/o 209/B-3, Western Central
Railway Colony, Tuglakabad,
New Delhi-44.

.. Applicant

(By Advocate : Mrs. Priyanka Bhardwaj for Shri M. K. Bhardwaj)

Versus

Union of India & Ors. through :

1. General Manager,
West Central Railway,
Jabalpur, Madhya Pradesh.
2. Divisional Railway Manager,
Western Central Railway,
Kota Division,
DRM Office, Kota.
3. Senior Divisional Electrical Engineer,
Electrical Loco Shed,
Western Central Railway,
Kota Division,
TRS Tughlakabad,
New Delhi.
4. The Divisional Electrical Engineer,
Electrical Loco Shed,
Western Central Railway,
Kota Division,
TRS Tughlakabad, New Delhi.

.. Respondents

(By Advocate : Shri Kripa Shankar Prasad)

ORDER (ORAL)

Learned counsel for the respondents was heard in this matter yesterday. However, learned counsel for the applicant had sought a day's time to respond to the argument put forth by the respondents' counsel. Heard the learned counsel for the applicant today.

2. The applicant is aggrieved by order dated 27.08.2013/02.09.2013, by which the allotment of Railway Quarter No.209/B-3, allotted to and occupied by the applicant, has been cancelled on the ground that he has misused the quarter against the rules.

3. The respondents in their reply have stated that a surprise check was conducted by the members of the Housing Committee and it was found that the said quarter was being used unauthorisedly for commercial activities. The Housing Committee found around 50 mattresses and 50 quilts inside the quarter. The Committee also found one Shri Sohan Lal present, who stated that he is paying rent to the applicant.

4. The applicant was issued a show cause notice and, in his explanation, he stated that the presence of quilts and mattresses was due to the reason that his daughter's marriage was to take

place. Moreover, it is stated that Shri Sohan Lal was his uncle, who is staying with him for treatment of asthma at AIIMS. However, on being asked, the applicant had neither enclosed any evidence for the treatment of his uncle nor regarding the marriage of his daughter, like marriage invitation card, booking of any community hall or tent etc. and further no date was mentioned by the applicant, when the marriage of his daughter was supposed to take place. The Committee, therefore, came to the conclusion that the explanation of the applicant regarding his daughter's marriage and Shri Sohan Lal being his uncle and being treated at AIIMS, was not credible and they concluded that the premises was being utilised by the applicant for commercial purposes.

5. Learned counsel for the applicant pointed out the following:

(i) The person, who signed the order dated 27.08.2013/02.09.2013, viz. Shri Mohan Singh, was the same person who was a Member of the Housing Committee which inspected the premises. It is argued that having been a party to the Inspection Team, Shri Mohan Singh could not take a view regarding cancellation of the allotment of the quarter as he would be an interested party.

(ii) It is stated that the number mentioned by the Inspection Committee, i.e. 50 quilts and 50 mattresses, is incorrect. The actual number was 25 quilts and 25 mattresses, which were required for

his daughter's marriage. It is further clarified that the date of the daughter's marriage was 16.12.2013.

(iii) It is further stated that Shri Sohan Lal was actually the applicant's uncle, who was staying with him for getting treatment from AIIMS for asthma.

(iv) It is also stated that the applicant had been harassed by the Railway Authorities from time to time and, in all, 15 charge memoranda have been issued against him, which shows that the respondents are biased and, therefore, in order to teach him a lesson, this concocted story of misuse of quarter for commercial purpose has been framed. In this regard, learned counsel for the applicant referred to decision dated 29.07.2016 in O.A. No. 116/2013, which was filed by the applicant against one such charge sheet served on him, and after consideration of all the facts, the Tribunal set aside the orders of the Disciplinary, Appellate and Revisional authorities and exonerated the applicant from all the charges. It is stated that most of the other charges were also similar and concocted to harass the applicant.

6. The issue in this O.A. relates to only one issue, i.e. inspection on 27.06.2013 of the Govt. quarter allotted to the applicant and, therefore, there is no scope of considering the other charge sheets and judgment in O.A. 116/2013 referred to by the learned counsel

for the applicant. The dispute basically is that whereas the applicant claims that he has been staying in the quarter and that the number of mattresses and quilts were for the purpose of his daughter's marriage and that Shri Sohan Lal was his uncle, who had come for treatment at Delhi and staying with him, the Committee came to the conclusion that the presence of huge number of quilts and mattresses indicated that the premises was being used for commercial activities in the absence of any documentary proof in support of the claim of daughter's marriage or Shri Sohan Lal being an uncle come for treatment of asthma at AIIMS.

7. As stated by the learned counsel for the applicant, the marriage of the daughter of the applicant took place on 16.12.2013. The inspection of the quarter was done on 27.06.2013, i.e. almost six months before the date of marriage. It does not seem credible that six months prior to the marriage, the applicant would have dumped his house with so many quilts and mattresses. This does not stand to reason. Therefore, this argument of the applicant has to be rejected. Moreover, in departmental matters, the respondents are guided by the principle of preponderance of probability. I also take note of the fact that neither before the Committee nor in the O.A., the applicant has filed any evidence to the fact that Shri

Sohan Lal was indeed his uncle and he was indeed undergoing treatment in AIIMS. Further, no evidence was produced regarding the marriage of his daughter. Therefore, these grounds are rejected. The only conclusion that can be drawn is that the premises was being used for commercial purpose, and the Housing Committee came to the right conclusion.

8. As regards, applicant's objection that the person, viz. Shri Mohan Singh, who has signed the order, was also part of the Inspection Committee, it would be seen from the order itself that Shri Mohan Singh is the Chairman of the Housing Committee. Therefore, he was perfectly within his right both to inspect and to issue the order. The O.A. is accordingly dismissed. No order as to costs.

(P.K. Basu)
Member (A)

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