

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1075 OF 2003

New Delhi, this the 26th day of February, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Shri U.P. Sharma,
S/o Late Shri Phoolchand Sharma,
C/o Harcharan Lal Sharma WZ,B 99,
Mansaram Park, Uttam Nagar, Delhi.

.....Applicant

(By Advocate : Dr.(Mrs.) Vipin Gupta)

Versus

Union of India through

1. General Manager
Central Railway Mumbai CST,
Mumbai.
2. Divisional Railway Manager,
(Commercial), Jhansi Division,
Central Railway,
Jhansi (U.P.).
- 3.. Sr. Division Electrical Engineer,
Electric Shed.
TRS Jhansi (UP).

.....Respondents

(By Advocate : Shri R.L. Dhawan)

ORDER (ORAL)

This Original Application has been filed by the applicant claiming several reliefs but the primary thrust of these reliefs is that recovery of damage rent of Quarter NO.RB II/964/A, TRS Colony, Jhansi is not in accordance with rules. According to the applicant, recovery amount of damage rent and other deductions made from his salary should be refunded with interest along with cost.

2. It is stated by the applicant that he has been working as Technician Grade I, Traction Rolling Stock, Nizamuddin, New Delhi. It is further stated that earlier he was posted at Electric Loco Shed, Jhansi

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and was allotted Railway Quarter NO.RB II/964/A, TRS Colony, Jhansi. He was transferred to Nizamuddin on 11.5.1998. It is also stated that in view of dacoity at his residence while staying at Jhansi, he shifted his family from quarter No.RB II/964/A, TRS, Jhansi to New Delhi and claimed to have given intimation for vacation of the said quarter as per letter dated 22.8.1998 (Annexure -B). This letter is addressed to Senior Divisional Electric Engineer and states that in view of the transfer of the applicant in May 1998, the applicant has vacated the said quarter. Therefore, the applicant has handed over possession of the same. There appears to be some initial of somebody on 22.8.1998. The applicant claims that Clerk or officer received it. It is further pointed out by the learned counsel of the applicant that on 9.9.1998, the same quarter was allotted to one Shri Y.P. Singh, as can be seen from the relevant extract of letter dated 9.9.1998 (Annexure G). Learned counsel further invited attention of another letter of one Shri Raghuvir Singh dated 25.3.1999 wherein he (Raghuvir Singh) informed the Chairman Housing Committee that he was not interested in occupying the Railway Quarter No.RB II/964/A, TRS Colony, Jhansi because of past history of dacoity in the said quarter. By referring to this, learned counsel of the applicant states that subject quarter was vacated. Therefore, the recovery of damage rent was not justifiable and recovery of other dues was also not justifiable. Respondent authorities themselves have accepted the plea of the

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applicant and have stopped recovery in respect of said quarter as per letter dated 22.2.2000 (Annexure -I). This Tribunal also, vide order dated 30.4.2003, directed the respondents not to recovery anything from the salary of the applicant pertaining to the said Railway quarter.

3. The respondents have opposed this Original Application. In the reply filed, it has been pointed out that the applicant was transferred from Jhansi to New Delhi but he failed to hand over vacant possession of the Railway quarter to IOW. Therefore, he was required to pay penal rent from 11.5.1998 to 18.10.2000. Learned counsel pointed out that vacant possession of the premises was taken over by IOW only on 19.10.2000, as is apparent from the letter dated 20.2.2003 (Annexure R-6) addressed to the applicant by the Divisional Railway Manager, Jhansi. Learned counsel stated that the applicant did not follow the prescribed procedure for making inventory and handing over the possession of the Railway quarter in accordance with the existing instructions on the subject.

4. On the other hand, from the copy of another correspondence, it was pointed out by the learned counsel of the respondents that perhaps the applicant had let out this quarter to somebody else and the vacant possession was not handed over by him. In this

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connection, he referred to letter dated 4.2.1999 (Annexure R-3) where such reference has been made.

5. After hearing the learned counsel of both the parties and after perusal of the records available, it appears that the matter deserves to be sent to the administrative - department first before expressing any opinion on the claims made by the applicant in this OA. For this purpose, the respondents are directed to treat this OA as a representation and take a suitable decision in the matter. However, it will not preclude the applicant from making any additional representation, if so advised, within a period of one month from today. If such representation is made or if no such representation is made, within one month the respondent No.3 is directed to pass a reasoned and speaking order under intimation to the applicant within a period of further two months. While doing so, respondent No.3 is further directed to keep the following aspects in mind while deciding the matter :-

- (i) Whether any letter dated 22.8.1998 as stated by the applicant was filed or not. If it was filed what was the action taken by the Railway Authorities for taking over the possession of the said quarter;
- (ii) Whether the applicant had actually sub-let the subject quarter and was not in a position to hand over the vacant possession on 22.8.1998;

and

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(iii) It is rather surprising that after the transfer of the applicant on 11.5.1998, no action by the administration was taken against him for not vacating the said quarter as per rules. So, it should be found out whether any disciplinary proceedings were initiated against him for not handing over the possession of the said quarter in accordance with the instructions on the subject. If no action was taken by the concerned authority, responsibility may be fixed by respondent No.3 as to whether the applicant is being punished on account of their negligence of the supervisory and controlling authorities.

6. It may be clarified even at the risk of repetition that no recovery should be made from the salary of the applicant till the final decision in terms of the directions aforesaid is communicated to the applicant.

7. Keeping in view the directions mentioned hereinbefore, this Original Application is disposed of without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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