

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD**

Allahabad, this Monday, the 14<sup>th</sup> day of December, 2020

**Original Application No. 330/01016/2018**  
(U/S 19, Administrative Tribunal Act, 1985)

Present:

**Hon'ble Mrs. Justice Vijay Lakshmi, Member-J**

**Hon'ble Mr. Navin Tandon, Member-A**

Muzaffar Huq Mujahid aged about 56 years, Son of Late Hafiz Jamaluddin  
R/o 10D/38A/1, Gaus Nagar, Kareilly, Allahabad.

**.....Applicant.**

**By Advocate : Shri Pradeep Kumar Mishra (in Court)**

**V E R S U S**

1. Union of India through General Manager, North Central Railway, Headquarters Office, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central Railway, Nawab Yusuf Road, Allahabad.
3. Principal Chief Mechanical Engineer, North Central Railway, Headquarters Office, Subedarganj, Allahabad.
4. Principal Chief Engineer, North Central Railway, Headquarters Office, Subedarganj, Allahabad.
5. Divisional Engineer (Estate), North Central Railway, DRM's Office Complex, Nawab Yusuf Road, Allahabad.

**.....Respondents.**

**By Advocate : Shri Shesh Mani Mishra (in Court)**

**(Reserved on 02.12.2020)**

**O R D E R**

**Delivered by Hon'ble Mr. Navin Tandon, Member (Administrative) :**

Through video conferencing.

1. The applicant is aggrieved that the respondents are deducting the House Rent even after he has vacated the officially allotted the quarter.

2. The applicant has made the following submissions in the Original Application :-

2.1 He was selected as Office Clerk through Railway Service Commission (now Railway Recruitment Board), Allahabad on 24.10.1986. Presently he is posted as Office Superintendent in pay band 9300-24800/- Grade Pay 4600/- under Respondent No.3.

2.2 Railway Quarter No.123 AB Type-III, 3<sup>rd</sup> Avenue, Nawab Yusuf Road was previously allotted and occupied by Shri Shamshad Ahmad, Ex Office Superintendent in the same department. Shri Shamshad Ahmad was due to superannuate on 28.02.2014. The said Quarter, which was vacated by Shri Shamshad Ahmad was allotted to the applicant on 06.02.2014. Accordingly, he took over the charge of the said Railway Quarter from Shri Shamshad Ahmad on 10.02.2014.

2.3 He has taken housing loan and purchased his own house in Kareli, Allahabad. He shifted from Railway Quarter to own house in the month of August, 2017.

2.4 After shifting to his own house, he surrendered the said Railway Quarter to the allotment authority/pool holder i.e. Mechanical Department, North Central Railway on 17.08.2017 (Annexure A-4).

2.5 He was admitted in Central Hospital on 22.08.2017 and was operated for removal of stone in gallbladder. After being declared fit for duty, when he joined duty on 18.09.2017, he was handed over the respondent's letter dated 28.08.2017 (Annexure A-5) stating that "you are advised to submit the vacation certificate from IOW and submit to undersigned".

2.6 He took three days Casual Leave from 19.09.2017 and attended IOW Office. He found that Shri Shamshad Ahmad, Ex. Office Superintendent was residing in the said Quarter with family. Upon questioning, Shri Shamshad Ahmad threatened the applicant and used unparliamentarily language.

2.7 Immediately, he went to the Police Station Civil Lines, Civil Lines. However, the Police Officer refused to lodge the FIR. He has sent the report through Speed Post to the Police Authorities. Further, he informed the Police Station Dhoomanganj where already a FIR is lodged against Shri Shamshad Ahmad (Case Crime No.0876 dated 31.08.2017) (Annexure A-7).

2.8 He has informed all the authorities concerned through representations dated 11.10.2017, 01.11.2017 and 30.01.2018 to get the Railway Quarter vacated by evicting unauthorised occupant.

2.9 The respondents should have initiated action to get the quarter vacated by invoking Public Premises (Eviction of Unauthorised Occupants) Act , 1971 (for brevity, PPE Act hereinafter) which empowers the Estate Officer to initiate eviction proceedings against the unauthorised occupant.

3. The applicant has prayed for the following relief(s) :-

“8.RELIEF SOUGHT : It is, therefore, most respectfully prayed that this Hon’ble Tribunal may graciously be pleased to :-

(a) ***Issue an order or directions in the nature of certiorari to quash and set aside the impugned order dated 06.09.2018 (Annexure-A-1) passed by the Respondent No.3.***

- (b) Issue an order or direction in the nature of mandamus to the respondents to stop the recovery of rent, electric charges etc. from the salary of the applicant.**
- (c) Issue an order or direction in the nature of mandamus to the Respondents to pay the House Rent Allowance (HRA) to the applicant w.e.f. 17.08.2017 and pay the arrear accordingly.**
- (d) Issue any further orders of direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.**
- (e) Award the appropriate cost in favour of the applicant.”**

4. The respondents have filed short counter reply wherein it has been stated that as per para 222 of Engineering Manual, it is the responsibility of the allottee to hand over the vacant quarter to the Supervisor In-charge of Works and Electrical Department. It also raises suspicion on the conduct of the applicant as the previous allottee of the said Quarter was Shamshad Ahmad, who is said to be occupying the said Railway Quarter in an unauthorised manner.

5. The applicant has filed the rejoinder and the respondents have filed Supplementary Counter Reply, in which earlier points have been reiterated.

6. Heard the argument of learned counsel for both the parties and perused the records made available to us in PDF Form.

7. Learned counsel for the applicant drew our attention to letter dated 17.08.2017 (Annexure-A-4) wherein the applicant has informed Respondent No.3 about vacating the house on 17.08.2017. Also letter dated 04.12.2017 (Annexure-A-10) has been written by Mechanical Department to Respondent No.5 to take action regarding unauthorised occupation of Railway Quarter by Shri Shamshad Ahmad. He also averred that the respondents should have taken action as prescribed in PPE Act to get the quarter vacated of unauthorised occupation.

8. Learned counsel for the respondents emphatically stated that the quarter was never vacated by the applicant and, therefore, he presently continues to be the allottee of the said quarter. The allotment authority/pool holder does not take the physical occupation of the quarters. This is the responsibility of the field supervisor of Engineering Department. Provisions of PPE Act are not invoked when a quarter is in possession of the allottee. He also raised suspicion that the earlier occupant of the quarter was Shri Shamshad Ahmad, who is said to be unauthorised occupant of the said quarter again. Therefore, there is a strong possibility of the applicant having sublet his house to Shri Shamshad Ahmad right from the day of allotment of the said quarter and now there is some misunderstanding between the two.

### **FINDINGS**

9. The issue involved is only whether the applicant has vacated the quarter, which was allotted to him, in the manner prescribed.

10. Para 222 of the Engineering Manual reads as under :

***“(a) All staff are under obligation to keep their quarters and compounds in a clean and tidy state and to obey all sanitary rules that are in force.***

***Before occupying railway quarters, the occupant should satisfy himself of their condition and sign the prescribed form.***

***(b) Cooking except in kitchens or places specially provided is forbidden.***

***(c) The occupant is responsible for notifying the vacation of his Quarters and for giving reasonable notice to the Works, Electrical and telecom staff for inspecting it in his presence. The Works and Electrical Supervisor in-charge should inspect the quarters and submit an estimate of damages attributable to the occupant to enable the department concerned to recover the cost. If there is an interval of time from date of vacation of quarters to next occupation, the Section Engineer (Works) should make necessary arrangements for its safe custody.***

***It is the responsibility of the Engineering staff or Special staff where appointed to see that the occupants adhere to the instructions laid down. Any breach of instruction should be reported to the occupant’s immediate superior.”***

11. Provisions of para 222 of Engineering Manual specifically brings out that an allottee has to inform the Supervisor-in-charge in advance, when he wants to vacate the quarter. The possession of the vacant quarter has to be given to Works Supervisor In-charge. A quarter cannot be vacated just by writing a letter to the allotment authority/pool holder.

12. Consequently, we do not find merit in the argument of the learned counsel of the applicant that it is the responsibility of the respondent department to get the quarter vacated by invoking PPE Act.

13. We note that the applicant has been working with the respondents since October, 1986 and was having more than 30 years of service when the said incident took place. He is occupying a very responsible post of Office Superintendent in Grade pay of Rs.4600/-. We find it very hard to believe that such an employee is not aware of the rules regarding vacation of the quarter.

14. The deliberations above unambiguously indicate that the applicant has not vacated the quarter in the prescribed manner, and he continues to be the occupant of the said quarter. Therefore, we do not find any irregularity in the actions of the respondents in continuing to deduct house rent and other associated charges.

15. Accordingly, the O.A. is dismissed being devoid of any merit. No costs.

(Navin Tandon)  
Member(Administrative)

(Justice Vijay Lakshmi)  
Member(Judicial)

RKM/