

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1092 of 1997

Allahabad this the 06th day of September, 1999

Hon'ble Mr.S.K.I. Naqvi, Member (J)

M.Z. Khan, S/o Md.Majid Khan, R/o 126 O.P.Loco
Colony, Moghalsarai, Varanasi.

Applicant

By Advocate Shri S.K. Dey
a Shri S.K. Mishra

Versus

1. Union of India through the General Manager,
E. Railway, Calcutta-1.
2. The Divisional Mechanical Engineer(P), E.Rly.
Moghalsarai, Distt.Varanasi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr. S.K.I. Naqvi, Member (J)

Shri M.Z. Khan has invoked the juris-
diction of this Tribunal under Section 19 of the
Administrative Tribunals Act, 1985 with the sub-
missions that he is posted as Driver Grade 'C' and
allotted with a quarter no.126 Type II at the rent

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of Rs.56/- per month. He received a notice from the respondents that he shall dismantle the unauthorised structure constructed by him in front of the quarter allotted to him, within 10 days and also he shall be liable for damage rent at the rate of Rs.142.50 per month. He further submits that he dismantled the said structure within the stipulated time of 10 days and also with the request that no action be taken against him for this unauthorised occupation. This application was of Shri Khan dated 25.4.1997 finds mention in annexure A-3, according to which the damage rent is to be charged from 10.5.1993 to 24.4.1997. He sought for the relief to quash the impugned order dated 25.4.97 through which damage rent has been fixed and also 15.5.1997 through which the damage rent has to be deducted.

2. The version of Shri M.Z. Khan has been controverted by the respondents through counters affidavit which specifically mention in para-9 that the report of unauthorised construction was made by D.E.N.(1) Mughalsarai on 10.5.1993 and again by D.R.M. Mughalsarai on 10.4.1997. It has been mentioned that the applicant has made some unauthorised construction and is liable for damage rent.

3. The applicant has reiterated his versions in the rejoinder-affidavit.

4. Heard, the learned counsel for the rival

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contesting parties.

5. It is not in dispute that the applicant is working as Driver and was allotted a type II quarter at the rent of Rs.56/- per month. The admission of the applicant can be inferred from his own pleadings and his report to the department that he raised construction which he himself termed to be unauthorised. It is also not in dispute that now Shri Khan has removed those so called unauthorised constructions. Learned counsel for the respondents has specifically mentioned the rule under which the railway department can charge for unauthorised construction calculated on square fit area of that unauthorised occupation. I fail to agree with learned counsel for the applicant that the area provided in front of quarter allotted, can be used by the occupant in any manner whatsoever suits and please to him. Under the circumstances, the applicant is liable to pay the damage rent for the area, he occupied in unauthorised manner. Now it is also to be seen as to what shall be that damage rent which appears to be another form of penal rent. The quarter occupied by the applicant is said to be at the rental of Rs.56/- per month whereas the damage rent has been proposed to be Rs.142.50 per month and that to for a period of about 4 years. Here I considered the plea from the side of the applicant that this amount may be reduced. This submission has been made with a reference to his pleadings in para-9 of the O.A.

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6. With the above facts in view, I find that the applicant is liable to pay the damage rent from 10.5.1993 to 24.4.1997 but at the rate of Rs 56/- ^{which is equal to} the rent of ^{the} his quarter occupied by him, per month. Consequently, the O.A. is dismissed without cost but with a direction that the applicant is liable to pay the damage rent only at the rate of Rs.56/- per month from 10.5.1993 to 24.4.1997.

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Member (J)

/M.M. /