

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 14<sup>th</sup> DAY OF DECEMBER, 1999

Original Application No. 1283 of 1998

CORAM:

HON'BLE MR.JUSTICE NEELAM SANJIVA REDDY,V.C.

Sudama Shukla,S/o Sri Shiv Nath Shukla

R/o Village-Purain Shukla, Post

Karail Shukla, District Deoria

Posted as Booking Clerk at Salempur.

... Applicant

(BY Adv:Shri Bashist Tiwari)

Versus

1. Union of India through General manager,  
N.E.Railway, Gorakhpur.
2. Divisional Rail Manager,  
Varanasi, N.E.Railway, Gorakhpur.

... Respondents

(By Adv: Shri G.P.Agrawal)

O R D E R

(By Hon.Mr.Justice Neelam Sanjiva Reddy,V.C.)

The applicant is questioning recovery of penal rent @ Rs.930/- per month from his salary for the quarter in his occupation at Bhatni.

2. The facts which cannot be disputed in this case are that the applicant, a Railway Booking Clerk was posted at Bhatni and was allotted a quarter. The applicant was transferred from Bhatni to Salempur by an order dated 23.3.1992. He continued to work at Salempur till 16.5.1997 on which date he was retransferred to Bhatni. On his transfer from Bhatni to Salempur he did not vacate the premises allotted by the Railways on the other hand, made some representations to the Higher Authorities for retention of the quarter which

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apparently were not considered and commenced recovery of penal rent @ Rs.930/- per month for the period of unauthorised occupation as per rules.

3. Questioning the above recovery order the applicant has filed this application. His grounds for relief are that the respondents did not follow the Statutory provisions contained in Rule 14 of Payment of Wages(Railway Rules),1938 and that there was violation of principles of natural justice; that the Railway Board's letter dated 15.1.1990 was unconstitutional and ultra vires and liable to be struck down, that penal rent could be recovered only under provisions laid down under Section 4 and 7 of Public Premises Eviction of Unauthorised Occupants Act, 1971 and that the Full Bench decision in the case of:

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Ram Poojan Vs. Union of India and another

is liable to be ignored and consequently the recovery proceedings of penal rent impugned in this application are liable to be set aside.

4. The respondents in their counter affidavit refuted all the above pleas of the applicant.

5. Section 1(6) of Payment of Wages Act, 1936 reads:-

"Nothing in the Act shall apply to wages payable in respect of a wage period which, over such wage-period, average (One thousand six hundred rupees) a month or more.

Admittedly, the applicant's monthly compensation paid by the Railways is very much more than the amount of Rs.1600/-. In view of the above provision of law the payment of Wages Act and the rules made thereunder cannot be applied to the applicant.

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6. A Full Bench decision of this Bench in Ram Poojan Vs. Union of India & Another considered the following questions.

- " (a) in the event of a railway employee in occupation of a railway accommodation, no specific order cancelling the allotment of accommodation on expiry of the permissible/permitted period of retention of the quarters on transfer, retirement or otherwise is necessary and further retention of the accommodation by the railway servant would be unauthorised and penal/damage rent can be levied;
- (b) retention of accommodation beyond the permissible period would be deemed to be unauthorised occupation and there would be automatic cancellation of allotment and penal rent/damages can be levied according to the rates prescribed from time to time in the Railway Board's circular."

The Full Bench after elaborate hearing and considering all aspects answered the questions as follows:

- " (a) In respect of a railway employee in occupation of a railway accommodation, in our considered opinion, no specific order cancelling the allotment of accommodation on expiry of the permissible/permitted period of retention of the quarters on transfer, retirement or otherwise is necessary and further retention of the accommodation by the railway servant would be unauthorised and penal/damage rent can be levied."
- (b) Our answer is that retention of accommodation beyond the permissible period in view of the Railway Board's circulars would be deemed to be unauthorised occupation and there would be an automatic

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cancellation of allotment and penal rent/damages  
can be levied according to the rates prescribed  
from time to time in the Railway Board's circular."

7. The Apex Court in Amitabh Kumar and another Vs. Director  
of Estates and another<sup>1</sup> opined that the Government  
employee who is unauthorised occupation is required to pay  
penal rent. In view of the above decisions of the Full Bench  
and Supreme Court I am of the view that there is absolutely  
no merit in the contentions of the learned counsel for the  
applicant. Accordingly the original <sup>Application</sup> is dismissed with costs.



Vice Chairman

Dated: 14.12.1999

Uv/

1. AIR 1997 SC 1308