

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1080 OF 2001
ALLAHABAD THIS THE 16th DAY OF 2004

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A
HON'BLE MR. A. K. BHATNAGAR, MEMBER-B

A.K. Rai,
S/o Late S.N. Rai,
R/o Bearer Inspectors Rest house,
U/Station Manager E-Rly.
Mughalsarai,
District-Chandauli.Applicant

(By Advocate Shri Shri S.K. Mishra & Sri S.K. Day)

Versus

1. Union of India,
through the General Manager,
E. Rly, Calcutta-1.
2. The Divisional Operating Manager,
E. Rly, Mughalsarai.
3. The Assistant Operating Manager,
E. Rly, Mughalsarai,
District-Chandauli.

.....Respondents

(By Advocate Shri K.P. Singh)

ORDER

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

In this O.A. Filed under section 19 of Administrative
Tribunals Act 1985, the applicant has challenged the order

dated 14.03.2001 for deduction of damage rent and also the chargesheet dated 20.03.2001. The applicant has prayed for quashing the impugned order of recovery dated 14.03.2001 and chargesheet dated 20.03.2001 with all consequential benefits.

2. The facts of the case, in a narrow compass are that father of the applicant who was working with the respondents as Train Ticket Examiner, Mughalsarai was allotted Railway Quarter No.12390, Type II in Manas Nagar, Railway Colony, Mughalsarai. He was declared medically unfit on 07.12.1992 and was ultimately relieved u.e.f. 26.12.1992. The father of the applicant expired on 23.07.1993. After the death of the father, the applicant was appointed as Group 'D' (Class IV) on compassionate grounds vide order dated 27.09.1993. The mother of the applicant made an application for transfer of the said quarter i.e. 12390 Type II in favour of his son i.e. applicant. It is alleged that no action was taken on her representation. She gave repeated reminders to this effect but in order to deny any relief to the mother, applicant was transferred ^{from Mughalsarai to Gaya, against which he filed} another O.M. No.44/01 wherein this Tribunal stayed the transfer order of the applicant. The applicant has alleged that due to stay order the respondents were annoyed and started action against him under section 4 of Public Premises Act.

3. It is further stated that since the applicant was retaining the quarter, the impugned chargesheet dated 20.03.01 has also been issued to him and finally the respondents recovered Rs2,183/- in the month of July 2001 as damage rent without serving any order. The applicant has stated that the quarter in question was retained by his mother and, therefore, no damage rent can be charged from the salary of the applicant, more so, also because the mother of the applicant

has not been paid his father's retirement/terminal benefits.

4. Respondents have contested the case of the applicant by filing CA stating therein that the father of the applicant was working as TTE and he was allotted ^{W Type II W} ~~1~~ quarter according to his entitlement. Since the applicant is a class IV employee, he is not entitled for that quarter and, therefore, he was repeatedly asked by administration to vacate that very quarter vide letter dated 10.09.1997, 04.12.1998, 02.07.1999 and 17-10.2000. However, the applicant did not pay any heed. The respondents have further stated in para 19 of the counter reply that the mother of the applicant has filed O.A. No.118/01 for regularisation of Railway Quarter No.10390 in favour of her son.

5. The respondents have further submitted that it was agreed to allot a Railway Quarter No.214/F Type I as per the entitlement of the applicant. The applicant took interview with Divisional Railway Manager, Mughalsarai on 13.11.2000. The applicant was advised to give an application for allotment of Type 1 quarter as per his entitlement but the applicant fled away. Therefore, ultimately Estate Officer was directed to initiate eviction proceedings under section 4 of Public Premises Act and the damage rent was recovered as per rules. Since the applicant was residing in the quarter, applicant has committed mis-conduct by not obeying the lawful direction of the higher authorities. Therefore, the chargesheet (SF-5) has been issued to him.

6. The learned counsel for the respondents submitted ^{in the action of respondents} that there is no illegality/and the present O.A. is liable to be dismissed.

7. We have heard counsel for the parties, considered their submissions and perused records.

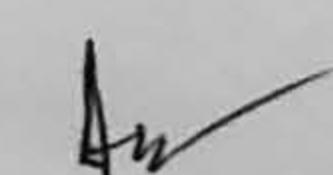
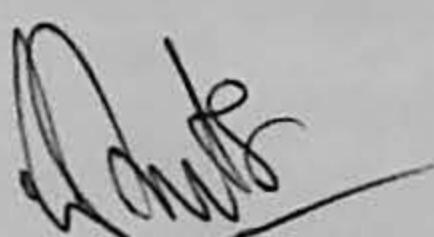
8. Before we consider the merits of the case we would like to observe that the applicant in the present O.A. has challenged the chargesheet dated 20.03.2001 and recovery of the damage rent for unauthorised occupation. These two reliefs are entirely different and have no relation with each other and the same amounts to ^{claiming} A pural remedies in this O.A. which is forbidden under Rule 10 of CAT(Procedure) Rules 1987 and on this ground alone the O.A. is not maintainable

9. The learned counsel for the applicant submitted that the Quarter in question was retained by his mother, even prior to the appointment of the applicant and, therefore, no action can be taken against the applicant. The learned counsel for the applicant also submitted that the respondents have followed policy of pick and choose because in number of other cases they have regularised the quarters, but in the instant case, the respondents have taken an incorrect stand. The action of the respondents is entirely discriminatory. We are not inclined to accept this argument of the learned counsel for the applicant. However, to our pointed query whether the applicant is living in the same quarter, the learned replied in affirmative. Since the applicant is also residing with his mother and is in possession of the same quarter, he is a party to the illegal act of his mother in retaining the quarter without any legal authority. It is well settled that in Government service quarters are allotted on the basis of ^{there} certain norms which have to be followed, otherwise, / would be total chaos.

10. Admittedly the applicant is a Class IV employee and he is not entitled for allotment of Quarter No.1239D as per norms. He cannot claim allotment of the said quarter as a matter of right and he was under legal obligation to vacate the said quarter. Since the applicant continued the occupation of the Quarter alongwith his mother and not vacating the same despite repeated orders, the action on the part of the applicant prima-facie ~~constitutes~~ mis-conduct. However, at the moment, we are not expressing any opinion on the chargesheet issued to the applicant. Besides we also see no reason to interfere in the recovery order dated 14.03.2001. On perusal of records and after hearing the arguments of the counsel for the parties, we find no good ground for interference either in respect of recovery order dated 14.03.2001 or the chargesheet dated 20.03.2001.

11. In the circumstances and our aforesaid discussions, there is no merit in the D.A. and the same is accordingly dismissed.

12. There shall be no order as to costs.


Member-J
Member-A

/Neelam/