

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH: ALLAHABAD**

ORIGINAL APPLICATION NO.174 OF 2004

ALLAHABAD THIS THE 11<sup>TH</sup> DAY OF MARCH, 2005

**HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN**

Om Prakash Mishra,  
Son of Late Mahendra Mishra,  
Presently posted as Commercial traffic Inspector,  
As Gaya of Mughalsarai Division,  
East Central Railway, Mughalsarai.

.....Applicant

(By Advocate Shri Vinod Kumar)

Versus

1. Union of India,  
Through General Manager,  
East Central Railway,  
Hajipur.
2. Divisional Railway manager  
East Central Railway,  
Mughalsarai.
3. Estate Officer/Divisional Engineer,  
East Central Railway,  
Mughalsarai.
4. Senior Divisional Commercial Manager,  
East Central Railway,  
Mughalsarai.

.....Respondents

(By Advocate Shri K.P.Singh)

**O R D E R**

**HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN**

While working as Chief Booking Supervisor at Mughalsarai, the applicant was allotted Quarter No.431 (C.D.) Type-II I.I. Colony, Mughalsarai. On his transfer from Mughalsarai to Japla Station in Gaya he

*By*

was spared from 20.05.2002. Accordingly, he was required to vacate the quarter allotted to him but neither did he vacate the quarter nor did he obtain any permission to retain the quarter. By impugned order dated 21.01.2004 the O.S. Pay Bill, Mughalsarai has been directed to recover the damage rent from the salary of the applicant since 20.05.2002 @ Rs.4894/- P.M. The order impugned herein is sought to be quashed basically on the ground that on his transfer from Mughalsarai to Japla he had intimated the authorities in writing that he was willing to vacate the quarter. This information was given vide letter dated 17.05.2002 and vide subsequent letter the applicant informed the department that the quarter was in occupation of his wife and son-in-law who were not cooperating him and accordingly, requested that the quarter be got vacated in accordance with law. In response to the applicant's letter dated 04.12.2002, a letter dated 15.09.2003, was issued by Senior Divisional Commercial Manager, Mughalsarai directing the applicant to vacate the quarter within 15 days failing which disciplinary action would be taken against him and the quarter would be got vacated through State Officer but no action was taken by the respondents to get the quarter vacated from the wife and Son-in-law who were in an unauthorized occupation.

2. Learned counsel for the respondents contended that since the quarter was allotted to the applicant

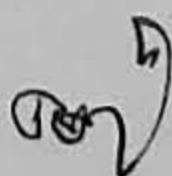
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he was under an obligation to hand over the vacant possession of the quarter to the authorities and in the event of failure to do so he would be liable to pay damage rent. The applicant, according to the respondents is not absolved of his liability to pay the damage rent only by saying that his wife and son-in-law were occupying the quarter without his consent.

3. Having heard counsel for the parties, I am of the view, that though there seems to be some administrative lapse to get the quarter vacated in the circumstances set out herein above, but at the same time the applicant, in my opinion, cannot absolve of his liability to pay the damage rent under the terms and conditions of allotment and the rules governing allotment/damage rent is payable if the vacant possession of the quarter is not handed over to the authorities within a reasonable time after the possession or entitlement to continue in the quarter. I do not find any good ground to interfere with the order impugned herein.

4. Accordingly, the O.A. fails and dismissed in terms of the above observation. No Costs.

  
Vice-Chairman

/NEELAM/