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**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ORIGINAL APPLICATION NO. 1485 OF 2005

ALLAHABAD THIS THE 04th DAY OF MARCH, 2008

HON'BLE MR. ASHOK S. KARAMADI. MEMBER-J

Krishna Tirkey, S/o Hari Dayal, R/o Roza Colony, Mugalsarai,
District Chandauli.

.....Applicant

By Advocate: Sri S.K. Mishra

V E R S U S

1. Union of India through the G.M. E.C. Railway, Hazipur (Bihar).
2. D.R.M. , E.C. Railway, Mugalsarai, District Chandauli.
3. The Sr. DPO, E.C. Railway, Mughalsarai, District Chandauli.
4. Sri Shamsad Sr. Section Engineer (C&W), E.C. Railway, Mughalsarai.
5. The Estate Officer, E.C. Railway, Mughalsarai, District Chandauli.

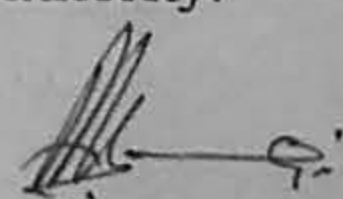
.....Respondents

By Advocate: Sri. S.K. Anwar.

ORDER

This O.A. is filed seeking quashing the order dated 8.9.2005 and 11.11.2005 passed by respondent nos. 1 & 3 respectively.

2. The case of the applicant is that with regard to circular no. 2-B, Roza Colony, Mughalsarai in which the applicant is staying and the same was allotted by the competent authority.



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Subsequently steps are being taken for eviction and for taking the possession of the quarter on administrative grounds with reference to the applicant is concerned. When the said order was passed on 8.9.2005 by the competent authority, the applicant has preferred a representation dated 19.9.2005. On consideration, the representation of the applicant was decided by the competent authority vide order dated 11.11.2005. It is the case of the applicant that the respondents without giving any opportunity of hearing or show cause notice with regard to the action taken of the quarter allotted to the applicant. The respondents have taken steps for cancellation of the same and eviction of the said quarter under the Public Premises (Eviction of Unauthorized occupants) Act 1971 (hereinafter referred to as the Act). The contention of the applicant in respect of that is that the representation dated 19.9.2005 while it is pending, the respondents have taken the steps for eviction of the quarter, which is not permissible according to the applicant is concerned, therefore, the impugned orders are not sustainable in the eyes of law. Hence, this O.A. is being filed for quashing of the same.

3. On notice, the respondents have filed Counter affidavit contesting the claim of the applicant by saying that the action of the respondents is in accordance with the Rules and procedure. The relevant dates of the proceedings s stated by the respondents are as under:

Sl.N	Date	Events
●.		
1.	1.9.03	Order was issued by Senior Section Engineer {DLS} Diesel Shed, Northern Railway, Mugalsarai to the effect that the railway quartr number Type -IV Special-B, Roza Colony was allotted to the applicant as per

- order of Sr. DME (DSL), AMV/NR/LKO while the applicant was working in Northern Railway (Annexure no. A-1 with the O.A. page no.10)
2. 8.9.05 As per order of the competent authority order was issued to the effect that the railway quarter no. Type-4 Special (quarter in question) to Sri Shamshad Senior Section Engineer, Mugalsarai after canceling the allotment by the competent authority (Annexure no. A-3 to the O.A. page no.8)
 3. 19.9.05 Applicant preferred a representation to the DRM, East Central Railway, Mugalsarai (respondent no.3) against the order dated 8.9.2005 and requesting therein to cancel the allotment of the said quarter to another employee.
 4. 27.9.05 Show cause notice under Section 4(1) of the Public Premises (Eviction of Unauthorized Occupants) Act 1971 to the applicant by the Estate Officer appointed under the provisions of said Act as to why order of eviction should not be made (Annexure no.7 to the O.A page no. 14).
 5. 6.10.05 Sr. Section Engineer, N.R. Lucknow issued a letter to DRM, East Central Railway, Mugalsarai informing him that the Railway quarter was allotted to the applicant vide letter dated 1.9.2003 issued by Senior Section Engineer, Northern Railway, Mugalsarai.
 6. 11.11.05 Sr. Divisional Personnel Officer issued the reply of representation dated 19.9.2005 informing the applicant that he was not entitled for the Railway quarter Type-4 Special and, therefore, it cannot be given to him. It was also intimated to the applicant that he could opt any of the two quarters allotted to the department of the applicant. (Annexure no. A-5 with the O.A. page no. 9).

With regard to allotment of quarter and the action taken against an employee. The order was passed on 8.9.2005 by the competent authority cancelling the allotment of the quarter in favour of the applicant. Feeling aggrieved, the applicant had preferred a representation dated 19.9.2005, the same was disposed of vide order dated 11.11.2005 informing the applicant that he was not entitled to Railway quarter Type IV, therefore, it cannot be given to him. It was also intimated through the said

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letter that he could opt any of the two quarters allotted to the department of the applicant. It is not an appeal as contended by the applicant as there is no provision contained in the statute to prefer an appeal. Having regard to the same and in view of the fact that the respondents have taken action against the applicant for eviction of the quarter as well as taken steps for cancellation of the same. The applicant has got no grievance against the cancellation of railway quarter in his favour and if he has, then he should have moved before the competent authority of the respondent establishment and as such the respondents have sought for dismissal of the O.A.

4. I have heard the learned counsel for the applicant and respondents and have perused the pleadings available on record. It is clear from the record that the applicant was allotted railway quarter on 1.9.1993 and subsequently by competent authority has taken steps for cancellation of the same in view of the instructions existing with reference to the applicant is concerned and when the competent authority passed the order dated 8.9.2005, the applicant made a representation dated 19.9.2005, the said representation was disposed of by the competent authority vide order dated 11.11.2005. Against which, the applicant is aggrieved by stating that the respondents have taken action against him simultaneously under the provisions of Act as contended by the learned counsel for the applicant in his representation dated 19.9.2005, is one of the appeal, therefore, respondents are restrained from taking action against the applicant. Having regard to the same, once they have taken steps for cancellation of railway quarter, in question, and simultaneously they have taken recourse against



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the applicant, which is not permissible according to applicant's submission. This contention of the learned counsel for the applicant is not accepted. Statute under the Act and Rules framed there-under provide so. Even otherwise, as contended by the applicant himself that it was a representation stated by the respondents, which was disposed of vide order dated 11.11.2005. The grievance of the applicant in the said representation was that as the allotted railway quarter of the applicant was cancelled by the respondents/competent authority is not just and in accordance with rules as the applicant is entitled to the same. Having regard to the fact that in absence of statute an appeal is provided before the appellate authority. The contention of the applicant cannot be accepted as the representation of the applicant is one of the appeal and the steps for evicting the railway quarter has been taken under the Act. In the circumstances, the respondents have taken steps for evicting the railway quarter of the applicant in accordance with rules. The said action of the respondents taken against the applicant is not against the provisions of Rules. Having regard to the same, I do not find any justification in the contention of the learned counsel for the applicant. In that view of the matter, the learned counsel for the respondents submits that the applicant cannot maintain this O.A. before this Tribunal having regard to its jurisdiction to consider the same in view of the fact that proceedings are pending before the competent authority under the provisions of Act. Since pendency of the present proceedings before this Tribunal and also the stay order has been granted in favour of the applicant, the said authority has not proceeded to take a final decision in the matter, therefore,



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sought for vacation of interim order and dismissal of O.A. To consider this contention, it is appropriate as held earlier since the respondents have got recourse to take action against the applicant with regard to railway quarter under the provisions of law which is applicable cannot be said to be illegal or that the respondents have taken action for eviction of the same under the provisions of Act, is also supported by their action and informed the applicant accordingly. In that view of the matter, I do not find any justification to continue the proceedings here, as the action taken by the respondents is in accordance with law by the competent authority in evicting the railway quarter allotted to the applicant. The only recourse open to the respondents that they have to proceed in accordance with law for evicting the railway quarter or taking steps for evicting the same. The details of facts and the proceedings stated by the respondents have already been narrated in para 3 of this order, which clearly goes to show that the action of the respondents in prosecuting the matter for evicting the railway quarter against the applicant cannot be faulted at any ground. Having regard to the pendency of the O.A. and continuation of interim order, the competent authority under the Act is not in a position to proceed further in a case pending before him against the applicant. As I have already observed hereinabove, the respondents have taken action against the applicant in accordance with rules for eviction of railway quarter allotted to him and as such the respondents have no other option, but to the exercise being done by them in accordance with law against the applicant



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as such the applicant has not made out any case for grant of any relief as claimed.

5. In view of the foregoing discussion, I do not find any justification to interfere in the orders passed by the respondents and as such the O.A. fails and is accordingly dismissed. The interim order passed earlier stands vacated. No costs.



MEMBER-J

GIRISH/-