

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 30th day of August 2000

Original Application no. 1654 of 1993.

Hon'ble Mr. S.K.I. Naqvi, J.M.
Hon'ble Mr. M.P. Singh, A.M.

Fateh Mohd.,
S/o Sri N.G. Syed,
working as C.P.C. Gangman under P.W.I.,
Northern Railway, Churk.

.. Applicant

C/A Sri Anand Kumar

Versus

1. Union of India through General Manager,
Beroda House, New Delhi.
2. Assistant Engineer, N.Rly., Chunar.
3. Permanent Way Inspector, N. Rly.,
Churk.

.. Respondents

C/Rs Sri A.K. Pandey
Sri M.C. Mishra

...2/-

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O R D E R

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

Sri F. Mohd., while posted as C.P.C. Gangman under PWI, N. Rly., Churk, occupied Railway Quarter no. 15 E (Type A) without having obtained allotment or permission for the same, for which disciplinary proceedings were proceeded against him and order was also passed to charge damage rent for unauthorised occupation of Railway Quarter. challenged the In this OA the applicant has impugned the orders dated 28.10.90 and 29.03.91, copies of which have been annexed as Annexure A-1 and A-2 to the OA through which damage rent has been ordered to be charged, on the ground that the damage rent could not be recovered without initiating proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and also on the ground that since in the disciplinary proceedings, he was punished for withholding of increments, the imposition of damage rent would amount double jeopardy which is not permissible under law.

2. The respondents have contested the case and filed the CA in which there is clear mention in para 4 (V) on the basis of which damage rent in respect of quarter in question has been assartained and it has been pressed that the petitioner is devoid of merit and is liable to be dismissed.

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3. Heard learned counsel for the rival contesting parties and perused the record.

4. From the facts and circumstances as have come out from the pleadings, it is quite evident that the applicant unauthorisedly forced his entry into the vacant quarter of Railway Establishment and thereby his status was only that of trespasser.

Hence, ^{he} ~~only~~ proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971, are required.

So far as the double jeopardy is concerned, he was punished ⁱⁿ ~~on~~ the disciplinary proceedings for act of disobedience and the damage rent has been ordered to be charged for unauthorised occupants ^{of} ~~of~~ Railway Quarter. Therefore, this act of the respondents ^{successfully} cannot be assailed.

5. During the course of argument, learned counsel for the applicant drew our attention towards annexure A-1, ^(dated 28.10.90) in which the plinth area has been mentioned as 24.42 Sq Meter and damage rent thereon has been calculated @ Rs. 15/- per Sq Meter, whereas in annexure A-2 dated 29.03.91, the plinth area has been mentioned as 47.68 Sq Meter and damage rent has been calculated thereon. This argument is either out of confused brain or it has been put forward to confuse the bench because annexure A-2 has been issued by way of corrigendum to explain that in order dated ^{(Ann. I) Where the} 28.10.90, the plinth area has been mentioned ~~but~~

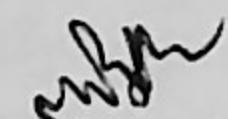
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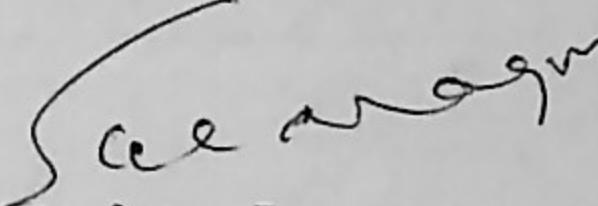
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actually it was covered area whereas the plinth area is 47.62 Sq meter and the applicant is liable to pay damage rent for the same.

6. For the above we find no merit in the OA which is dismissed accordingly. Interim order, if any, stands vacated accordingly.

7. There shall be no order as to costs.


Member-A


Member-J

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