

- 10 -

Open court

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALLAHABAD

DATED: THIS THE 8TH DAY OF JULY 1997

CORAM: Hon'ble Mr. S. Das Gupta AM  
Hon'ble Mr. T. L. Verma JM  
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ORIGINAL APPLICATION NO. 388/93

Krishna Kumar aged about 36 years  
son of Late Sri Ram Chandra  
resident of 2-A Mhatma Gandhi Marg,  
Civil Lines, Allahabad. - - - - - Applicant

C/A Sri O. P. Gupta

Versus

1. Station Superintendent,  
Northern Railway, Allahabad.
2. Divisional Railway Manager,  
Northern Railway, Civil Lines,  
Allahabad.
3. Union of India through  
General Manager, Northern Railway,  
Baroda House, New Delhi. - - - - - Respondents

C/R Sri S. N. Gaur

ORDER (ORAL)

By Hon'ble Mr. S. Das Gupta AM

This application was filed challenging the action taken by the respondents in recovering the rent for occupation of quarter no. 112-A, Subedargunj Allahabad. The facts of the case as revealed in the

22

pleadings are that the applicant was allotted this quarter, but he sent an intimation to the respondents vide his letter dated 30.12.1991 that as the quarter is far away from the railway station, he would not like to stay in the same. He also requested the respondents to treat the quarter as having been vacated by him. It appears that thereafter the railway authorities allotted this quarter to one Smt. Ranjana Chaudhary by order dated 2.1.1992. However the said allottee could not take possession of the same and one Sri R. K. Sharma, A.S.M. unauthorisedly occupied the said quarter. The case of the respondents is that the said Sri R.K.Sharma was an unauthorised occupant of the quarter and the applicant not having given the vacant possession of the quarter to the Railway authorities was responsible for the payment of rent of the quarter.

2. We have gone through the pleadings on record and also heard the arguments advanced by the counsel for the applicant. None appeared for the respondents.

3. Admitted position of the case is that the applicant did not give vacant position of the quarter and the same was illegally occupied by Sri R. K. Sharma. There is no doubt that the applicant had been ~~the~~ guilty of omission in not handing over of the vacant position of the quarter and thereby enabling <sup>an</sup> unauthorised person to take possession of the same. We have also noticed from annexure 3 to the R.A. that the said Sri R.K.Sharma himself had written to the respondents on 17.1.1992 that on that date itself he had taken possession of the said quarter on being given verbal permission by the Railway administration. It was, therefore, incumbent on the part of the respondents to take cognizance of this matter and

52

and <sup>46</sup>decided either to allot the said quarter to Shri R.K.Sharma or to take action regarding his eviction. It appears that neither of the actions was taken by the railway administration and the said quarter remained in authorised occupation of Sri R. K. Sharma. Thus not only the applicant is guilty of omission, but the respondents are also guilty on the same account. Infact the responsibility of the <sup>respondents</sup> ~~respondents~~ is more in this connection since they failed either to allot the quarter or evict the unauthorised occupant.

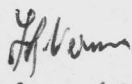
4. We have noticed that at the time of admission on 24.3.1993, an interim order was passed directing the <sup>further</sup> respondents not to make/reco-very of rent from the applicant. Learned counsel for the applicant informed us that this interim order has not been obeyed by the respondents. This is highly reprehensible on the part of the respondents. We have been shown a copy of the pay slip which indicates that the recovery of quarter rent is still being made from the applicant. This action on the part of the respondents is an ex-facie contempt of court but since this was not brought to our notice within the stipulated period of limitation, we refrain <sup>From taking</sup> any action against the respondents in this connection.

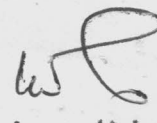
5. In the facts and circumstances discussed above, we direct the respondents to refund whatever recovery has been made from the pay of the applicant for the month of May 1993 onwards within three months from the date of communication of this order. Applicant, however, shall not get any refund of the recovery made from him till April, 1993. The recovery of rent beyond April, 1993

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13 -  
<sup>may</sup>  
~~shall~~ be made from the salary of the unauthorised  
occupant in accordance with ~~the~~ law.

6. This applicant stands disposed of with the  
aforesaid directions, leaving the parties to bear their  
own costs.

  
Member (J)

  
Member (A)

SQI