

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 28TH DAY OF AUGUST, 2000

Original Application no.802 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

Vijay kishore, Son of Mishree Lal  
R/o 1376 D Manas Nagar,  
Moghalsarai, Varanasi.

... Applicant

(By Adv: Shri S.K.Dey)

Versus

1. Union of India through the General Manager  
Eastern railway, 17-Netaji Subhash  
Road, Calcutta-1
2. The Divisional Accounts Officer, Eastern  
Railway, Moghalsarai,  
Varanasi.

... respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

This application u/s 19 of the A.T.Act 1985, has been filed challenging the order dated 19.1.1993 by which the applicant has been saddled with the responsibility of Rs.23,453/-as damage rent for occupying the railway quarter in unauthorised manner for the period from 1.9.1990 to 31.12.1992. The amount has been calculated @ 15/- per sq.meter for a total plinth area of 55.84 sq.meter i.e. Rs.837.60 per month. The learned counsel for the applicant has questioned the legality of the order on a short ground that before passing the order he has not been given any opportunity of hearing.

Shri Amit Sthalekar, learned counsel for the respondents on

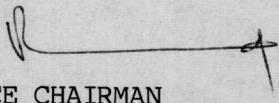
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the other hand, submitted that as on transfer of the applicant there was a ~~deemed~~ <sup>deemed</sup> revocation of the allotment, his possession became unauthorised and the liability to pay the amount has been rightly ~~to~~ <sup>to</sup> fixed by the Authorities and in this matter no opportunity of hearing is required to be given. We have carefully considered the submissions of the learned counsel for the parties and we are of the opinion that the order impugned cannot be sustained. There is no doubt about the legal position that whenever an order is passed which entails serious civil consequences against the person affected he should be given an opportunity of hearing. For the view we are taking here, we find support from the judgement of a Division Bench of Ernakulam Bench of this Tribunal in 'P.K.Gangadharan Vs.Union of India and Others 1997(35) ATC 107 and an unreported judgement dated 12.11.1999 of this Tribunal in OA No.645/97 A.K.Chaudhary Vs.Union of India and another. As admittely no opportunity was given to the applicant before passing the impugned order, he is entitled for the relief.

The application is accordingly allowed. The order dated 19.1.1993 is quashed. However, it shall be opened to the respondents to pass a fresh order after providing reasonable opportunity of hearing to the applicant. No order as to costs.

S-2  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 28.8.2000

Uv/