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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 856 of 1993

Allahabad this the 05th day of December, 2000

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

Lakshmi Kant, S/o Sri Sharda Prasad, working as Gangman in Gang No.13 under P.W.I., Northern Railway, Churk, R/o Village; Marha, P/o ; Meja, Distt.; Allahabad.

Applicant

By Advocates Shri Anand Kumar
Shri C.P. Gupta

Versus

1. Union of India through General Manager, Northern Railway, Baweda House, New Delhi.
2. Sr.Divisional Engineer(II) D.R.M. Office, N.Rly., Allahabad.
3. Asstt.Engineer, Northern Railway, Chunar.
4. Permanent Way Inspector, Northern Railway, Chunar .

By Advocate Shri T.N. Keel

O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Lakshmi Kant, Gangman in respondents establishment, occupied quarter no.13 D with the consent of its allottee-Shri Lalji and when it was vacated by Shri Laljee and allotted

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to Shri Manager, another Gangman, the applicant continued to occupied the quarter with the consent of Shri Manager. When it was detected, out of an inquiry that this quarter-13 D is being occupied by the applicant who is not allottee to the same, annexures A-2 and A-3 were issued to the applicant to vacate this quarter and to pay the rent at damage rate which was to be deducted from his salary. The applicant made several representations before the authorities concerned, but of no avail hence, has come up before the Tribunal seeking relief to the effect that eviction and damage rent imposing orders(annexures A-2 and A-3) be quashed and respondents be directed to recover only normal rent.

2. The respondents have contested the case and filed counter-reply. According to which this quarter in question no.13-D was never allotted to applicant and through out he remained unauthorised occupant and, therefore, he is liable to face the proceedings and also to pay the damage rent for the period he remained in occupation of this quarter.

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

54. It is not in dispute that the

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applicant-Lakshmkant remained in possession of quarter in question when it was allotted to Shri Laljee and thereafter to Shri Manager, Gangman. It is also not in dispute that the applicant had never been allotted ~~to~~ this quarter but, at the same time he cannot be held to be a trespasser because he occupied the quarter with the consent of original allottees who never objected to his occupation and if, there was any infringement of rules or liabilities ^{arise out of} for the same, that goes to the shoulders of the allottees who permitted the applicant to occupy the quarters but, there is nothing on record ^{to} show that any action has been taken against them. Moreover, as per rules in this regard, if anybody unauthorisedly sublets or shares the railway quarter, he is liable to eviction and consequential penalties and not the person who occupies as sharer in the accommodation. It is also very clear from the Railway Rules that only allottee is liable to pay the rent/damage or penal rent and not the sharing occupant. It is quite obvious that if for misuse of railway quarter some action was to be proceeded, that was to be against the allottee who permitted the co-sharer occupant to occupy the quarter and if out of these proceedings, the allotment of allottee is cancelled and the co-sharer of the occupation continues to be there, only then action could be initiated against him.

5.

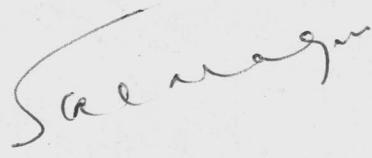
For the above, I find the applicant

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but
is ~~not~~ liable to pay the damage rent. However,
it is clarified that the respondents can charge ~~the~~ from
the allottees who permitted the applicant to
occupy the quarter in question against the rules.
The O.A. is decided accordingly. No order as to
costs.



Member (J)

/M.M./