

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17TH DAY OF AUGUST, 2000

Original Application No. 1728 of 1994

CORAM:

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

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

Radhey Shyam mishra, S/o Late Raja Ram  
Mishra, C/o Shri S.N.Mishra, Qr.no.804/D,  
Diesel Locomotive Works Colony, varanasi.

... Applicant

(By Adv: Shri R.C.Johri)

Versus

1. The Union of India through its General Manager, Diesel Locomotive Works, Varanasi.
2. The General Manager(P), Diesel Locomotive Works, Varanasi.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

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

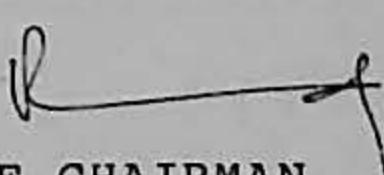
In this application it is not disputed that for unauthorised detention of the railway quarter the proceedings u/s 4 of Public Premises(Eviction of unauthorised occupants) Act 1971, ~~Proceedings~~ were initiated against the applicant Radhey Shyam mishra. The Estate Officer by his order dated 7.5.1991 directed the applicant to pay the amount of Rs.29,488.71p. Against this order the applicant filed appeal registered as Misc. civil appeal no.181 of 1991 which was decided by learned IX Addl. District Judge,Varanasi on 22.5.1993. The appeal was partly allowed and the order dated 7.5.1991 was modified to the extent that in place of damage rent Rs.955.35 per month the double rent namely Rs.130/- per month and Rs.10/- water tax was

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allowed to be charged for the period 3.2.1990 to 23.4.1992. This order has become final between the parties.

The learned counsel for the applicant Shri R.C.Johri,however, submitted that as rent has been charged under the appellate order the occupation cannot be said to be unauthorised and the complementary passes cannot be cancelled. However, this submission cannot be accepted. The proceedings under the said act of 1971 were initiated treating the applicant's possession unauthorised. The order of the Estate Officer has been upheld by the Appellate Authority. Only amount of rent has been reduced. As the order is binding on the applicant it is not open to him to say that his occupation was not unauthorised. In the circumstances, the step taken by the Railway in refusing the complementary passes cannot be said to be arbitrary or illegal. The application has no merit and is accordingly rejected. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 17.8.2000

Uv/