

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 3rd day of March, 98.

O.A. No. 257/94

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

Hari Lal son of Sri Ram Kumar resident of 295/A  
G.R.P. Police Line Railway Colony Allahabad.

Applicant.

By Advocate Shri Satish Dwivedi.

versus

1. Union of India through the General Manager,  
Northern Railway, Baroda House, New Delhi.
2. The Divisional Mechanical Engineer (Carriage and  
Wagon), Northern Railway, Allahabad.
3. The Coaching Depot officer, Northern Railway,  
Allahabad.

Respondents.

By Advocate Shri J.N. Singh.

O R D E R(ORAL)

This is an application under section 19 of the  
Administrative Tribunals Act, 1985.

2. The applicant has filed this application seeking  
the setting aside of order dated 7.1.94 passed by Coaching  
Depot Officer, Northern Railway Allahabad asking the  
applicant to vacate the quarter within 15 days and issuance  
of direction to the respondents to allow the applicant to  
reside in the said quarter which is quarter No. 295/A, G.R.P  
Police Line Railway Colony Allahabad till the age of his  
superannuation. The applicant also sought the relief of  
direction to the respondents to deduct the annual normal  
rent and not the market rent and refund the excess amount  
deducted with interest of 18% thereon. The applicant also  
seeks allotment of the said quarter in his favour, if it has  
not been allotted to him so far.



2. The applicant claims that he had applied for allotment of quarter No. 295/A G.R.P. Police Line, Railway Colony Allahabad which fell vacant in 1992. He was allowed by the railway authorities and the learned counsel <sup>for the applicant</sup> mentioned that he specifically means the Coaching Depot <sup>other</sup> Northern Railway Allahabad to reside in the said quarter with effect from 3.1.83. The applicant also mentions that after nearly 8 years of occupation of the quarter, the respondents started deducting the rent at market rate with effect from January, 1991. The applicant made representations but to no avail.

4. The respondents issued orders dated 7.1.94 which was received by applicant on 18.1.94 by which he was directed to vacate the quarter within 15 days. The applicant made a representation against this order on 18.1.94 but this remains pending.

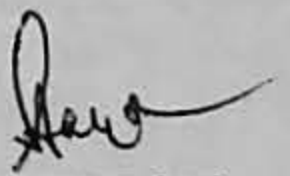
5. The respondents have denied that the applicant had applied for allotment for the railway quarter in his favour or that he was granted any permission to occupy the quarter and therefore, his occupation was unauthorised from 3.1.83. They have mentioned that the applicant was served notice dated 18.7.88 which was received by him on 20.8.88 for vacating the railway quarter, but on his failure to do so, market rent was levied. The respondents have also mentioned that the applicant applied for allotment of railway quarter on 14.1.94 and his name has been registered for allotment of railway quarter which may belong to the pool of Coaching Depot. They have stated on the other hand that the railway quarter presently occupied by the applicant belongs to the pool of Station Superintendent Northern Railway Allahabad.

6. The applicant has averred in his application that several persons who were appointed after the applicant under the respondents on the post of Khalasi were allotted railway quarters in their favour. This averment of the applicant has not been denied by the respondents.

7. Another fact which is to be kept in view is that the market rent was levied on the applicant with effect from January, 1991 and the applicant did not approach the

Tribunal against the levy of market rent. It appears that the applicant has no serious objection to payment of market rent in this case.

8. However, taking into account the fact that the applicant had occupied the quarter on 3.1.83 and it took the respondents five years of time to discover that the occupation was unauthorised and the first notice was issued only in the year 1988 and the fact that even after that the applicant was allowed to reside for another six years before a notice was issued to him, and the fact that he still is in occupation of the quarter as averred by his counsel before ~~me~~ today and still paying the market rent, it would be in order to direct the respondents to allow the applicant to remain in the quarter till the quarter from the Coaching Depot Pool is allotted to him on payment of market rent as he is doing at present and after allotment of quarter he may be charged normal rent. The possession of the applicant shall not be disturbed in the meanwhile. There shall be no order as to costs.

  
MEMBER (A)

SHAKEEL/