

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

Allahabad : Dated this 5th day of November, 2001.

CORAM:

Hon'ble Mr. S. Dayal, A.M.

I. Original Application No. 288 of 1996.

Mukhram Prasad S/o Late Mahabir, Ex-Driver,  
Resident of Vill-Rewsa P.C. Janso Ki Marai,  
District Varanasi.

(Sri Anand Kumar/Sri CP Gupta, Advocates)

..... . Applicant

Versus

1. Union of India through General Manager,  
Eastern Railway, Calcutta.
2. Divisional Railway Manager,  
Eastern Railway, Dhanbad.
3. Assistant Mechanical Engineer,  
Eastern Railway, Chophan.
4. Inspector of works, Eastern Railway,  
Singrauli.

(Sri G.P. Agarwal, Advocate)

..... . Respondents

II. Original Application No. 875 of 1999.

Mukhram Prasad, son of Late Sri Mahabir,  
Ex-Driver, Resident of Village  
Janso Ki Marai,  
District Chandauli.

(Sri Anand Kumar/Sri CP Gupta, Advocates)

..... . Applicant

Versus

1. Union of India through General Manager,  
Eastern Railway, Calcutta.
2. Sr. Divisional Personnel Officer,  
Eastern Railway, Dhanbad.
3. Sr. Divisional Accounts Officer,  
Eastern Railway, Dhanbad.

(Sri G.P. Agarwal, Advocate)

..... . Respondents

O R D E R (O\_r\_a\_1)

By Hon'ble Mr. S. Dayal, A.M.

This application has been filed for setting aside the orders dated 17-5-1999 and the letter dated 1-6-1999 and for a direction to the respondents to refund the amount deducted from the pension of the applicant with interest.

2. The applicant has filed this application stating that he was allotted Railway Quarter No.22/B/Type III in 1980. He handed over the charge of the quarter on <sup>and the quarter was</sup> 01-7-1995 allotted to Sri Syed Washabuddin, Diesel Asst. Railway Station Singrauli. The applicant was not given any amount of gratuity. Therefore, he represented and thereafter filed the OA No.281/1996. The respondent no.2 directed respondent no.3, Sr. Divisional Accounts Officer, Eastern Railway, Dhanbad to recover a sum of Rs.27474/- from the pension of the applicant and recovery has started. The applicant has filed another OA No.288/1996 regarding payment of gratuity.

3. This OA remains confined to setting aside of the impugned letter dated 17-5-1999 and direction to the respondents to refund the amount. It is clear from the record that the applicant has not been given any opportunity before order of recovery was passed and the <sup>was directly</sup> applicant <sup>intimated</sup> about the effecting of recovery.

4. Learned counsel for the respondents mentions that the orders dated 17-5-1999 and 1-6-1999 have already become infructuous because no further recovery is being made from the applicant as also the gratuity increased on subsequent calculation and the entire amount <sup>/to be</sup> recovered got adjusted from the increased amount of gratuity and the applicant was paid balance.

5. We find that <sup>l</sup> Now it remains a fact that the applicant was

not given any show cause notice and opportunity of hearing before recovery was directed to be made . Therefore, the impugned order dated 1-6-1999 is set aside and the respondents are directed to give opportunity to the applicant for explaining as to why recovery should not be made. The reply of the applicant may be considered and if any recovery has to be made, fresh orders of recovery will have to be passed, and, if any amount is to be paid to the applicant as consequence thereof, it shall be paid to him within two months.

There shall be no order as to costs.