

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1203 of 1999

Allahabad this the 09th day of August, 2001

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

Banmali Sardar, aged about 44 years, Son of Late
Phool Chandra Sardar, Working as Chief Goods Officer,
N. Rly. Fatehpur.

Applicant

By Advocate Shri S.K. Om

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Chief Goods Supervisor, Northern Railway, Kanpur Central Goods Shed, Kanpur(C.P.C.)
4. Station Superintendent, Northern Railway, Fatehpur.

Respondents

By Advocate Shri Amit Sthalekar

O_R_D_E_R (Oral)

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

Shri Banmali Sardar while posted as Goods Supervisor, Northern Railway, Kanpur, he was allotted Type III Railway Quarter bearing no.T-47-Copparganj, M.G. Goods Shed. On February, 28th, 1998, he was promoted as Chief Goods Supervisor and was transferred to

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Fatehpur. As per applicant while posted at Fatehpur, he was not allotted any railway quarter due to paucity of residence there and had to retained the quarter allotted to him at Kanpur. He requested the authorities concerned that he may be permitted to retain the Kanpur quarter, but the same was not replied. It was in the month of August, 1999 when a sum of Rs.6076/- was deducted from his pay. On inquiry, he was informed that this deduction is in respect of the quarter at Kanpur. He has pleaded that the copy of the order through which recovery made was not provided to him and this recovery has been made without proceeding under Section 4 of the Public Premises (Eviction of Unauthorised Occupant) Act, and, therefore, he has come up seeking the relief to the effect that the order dated 16.08.1999 be quashed through which recovery of damage rent was effected and respondents be directed to pay back the already deducted amount.

2. The respondents have contested the case, filed counter-reply with the mention that when the applicant was transferred from Kanpur and posted as Chief Goods Supervisor, Fatehpur vide order dated 23.02.1998, he was spared on 28.02.1998 to join at Fatehpur. It has also been mentioned that no request, as alleged from the side of the applicant, for seeking permission to retain the railway quarter at Kanpur, has, however, been received in the office of the respondents. In para-9 of the C.A., the relevant rules in this regard has been referred, where it has been provided that a railway employee on transfer from one station to any, may be permitted to retain

the railway accommodation for a period of two months on payment of normal rent and this period, under special circumstances as ^{clarified} mentioned in the rule, may be extended for further period of six months on payment of double the flat rate and thereafter extension may be granted on educational ground only to cover the current academic session on payment of special license fees. It has also been pleaded in para-10 of the counter-affidavit that the applicant was intimated vide letters dated 04.04.98, 06.06.98, 12.07.98 and 11.08.98 that after he was transferred to Fatehpur on 01.03.98, he had not vacated the railway accommodation allotted to him at Kanpur nor obtained any permission to retain the quarter and after these repeated letters when the petitioner did not vacate the railway quarter, the advise was sent to deduct Rs.6706/- per month as damage rent, from the salary of the applicant.

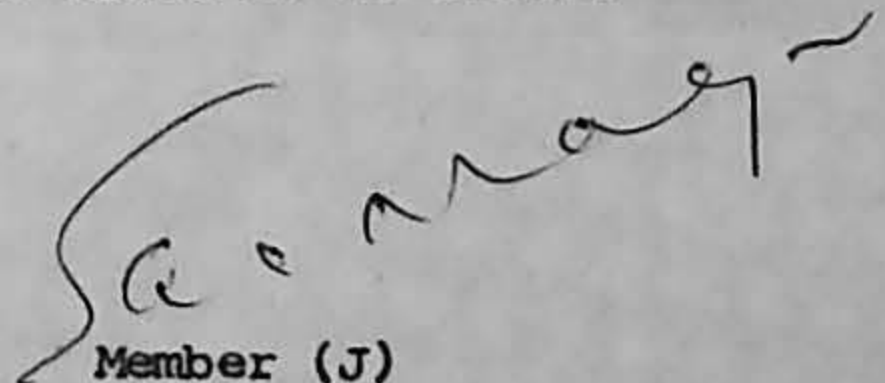
3. Heard counsel for the parties and perused the record.

4. Shri S.K.Om learned counsel for the applicant mentioned that the applicant vacated the quarter in question at Kanpur on 14.10.1999, whereas he was subjected to pay damage rent even for whole month of October, 1999.

5. The facts as come up from the pleadings advanced from either side, there is no controversy regarding the relevant facts. The case of the applicant is that he could not be subjected to damage

rent without having been proceeded under Public Premises (Eviction of Unauthorised Occupant) Act and referred the ratio in para-8 of Harbhajan Singh Sood Vs. Union of India cited as 1973(1) S.L.R. page 305. In reply to this legal position, Shri Amit Sthalekar, learned counsel for the respondents referred the law as handed down in Union of India Vs. Sisir Kumar Deb 1999 S.C.C. (L&S) page 781, wherein the requirement to proceed under Public Premises (Eviction of Unauthorised Occupant) Act, 1971 has been held to be unnecessary exercise. This legal position has also been dealt in sufficient detail in a Full Bench case Ram Poojan Vs. Union of India and Others 1996(1) A.T.J. page 540 C.A.T.

6. With the above position in view, it is found that the latest legal position turns in favour of the respondents and thereby no good long reason found to quash the impugned order and to interfere with the consequential recovery. So far as the excess recovery for certain time after 14.10.1999, when the applicant claims to have vacated the quarter in question, is concerned, this fact has come up in rejoinder by the applicant, which he may take up with the authorities concerned in the department. The O.A. is dismissed being devoid of merit. No order as to costs.


Member (J)

/M.M./