

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

ORIGINAL APPLICATION NO.131 of 2000.

Allahabad this the 24th day of April 2003.

Hon'ble Mr Justice R.R.K. Trivedi, V.C.

A.K. Banerjee
S/o Late G.L. Banerjee
Chief Bridge Inspector
E. Rly. Mughalsarai
u/AEN. (Bridge) E.Rly Mughalsarai
District Chandauli.

.....Applicant.

(By Advocates : Sri S K Dey/ Sri S.K. Mishra)

Versus.

1. Union of India
through the General Manager
E. Rly. Calcutta-1.
2. The Senior Divisional Personnel Officer
E. Rly. Mughalsarai, District Chandauli.

.....Respondents.

(By Advocate : K.P. Singh)

O R D E R


By this O.A., filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the order of recovery of damage rent of Rs.1500/- per month.

2. The facts of the case are that the applicant was serving as Chief Bridge Inspector and he was posted at Dehri-on-Sone where he was allotted Quarter No.221 for residence. Applicant was transferred from Dehri-on-Sone to Mughalsarai on 21.12.1990. He worked at Mughalsarai upto 30.08.1994. With effect from 31.08.1994 the applicant was again transferred to Dehri-on-Sone. Quarter No.221 continued in his possession. By order dated 14.12.1995 the applicant was again transferred from Dehri-on-Sone to Mughalsarai. Applicant joined at Mughalsarai on 01.02.1996. He continued to occupy the quarter. Ultimately he vacated quarter No.221

in June 1997. The order was passed some time thereafter for recovery of damage rent from applicant for unauthorised occupation of Quarter No.221 at Dehri-on-Sone, aggrieved by which the applicant has filed the O.A.. One of the grievance of the applicant is that he made representations on 27.2.1998 and 04.08.1998, copies of which have been filed as Annexure Nos.1 and 2 but representations have not been decided. Learned counsel for the applicant has submitted that during the relevant period the applicant was never asked to vacate the Quarter in question on account of his transfer to Mughalsarai. It is also submitted that change of resident was not required on account of short distance ^{between} ~~about~~ Mughalsarai and Dehri-on-Sone. It is also submitted that the recovery was initiated against the applicant after he vacated the quarter ⁱⁿ June 1997 without giving any opportunity of hearing.

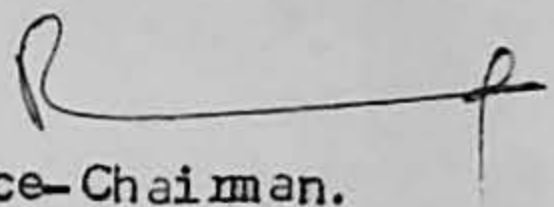
3. Sri K.P. Singh learned counsel for the respondents, on the other hand, submitted that no notice was required to be given ^{to} the applicant on transfer. In view of the Circular dated 15.01.1999 of Railway Board applicant was required to vacate the quarter immediately after his transfer and if ^{he} retained possession it was at his own risk.

4. After hearing learned counsel for the parties, in my opinion, it was not correct on part of respondents to assume that applicant has no defence against the recovery of damage rent during the period of 1990-1995. Applicant was not asked to vacate the quarter and was not asked to pay the damage rent. Before fixing the liabilities, opportunity should have been given ^{particularly} when he had vacated the quarter on his own. Applicant filed representation which ought to have been decided.



5. Considering the aforesaid aspect, this O.A. is disposed of finally with the direction to the respondent No. 2 to consider and decide the representation of the applicant by a reasoned order within a period of three months from the date a copy of the order is filed. To avoid delay it shall be open to the applicant to file a copy of the representation alongwith copy of this order. If the representation of the applicant is allowed he shall be paid back the amount recovered from ~~the~~^{him} ~~applicant.~~

No order as to costs.


Vice-Chairman.

Manish/-