

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 823 of 2000

Allahabad this the 14th day of May, 2001

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

Lovet Dickson, Head Khalasi, S/o Late S. Dickson,
General Section, T.M.S. Northern Railway, Kanpur.

By Advocate Shri Surendra Kr.Mishra

Versus

1. Union of India through Divisional Railway Manager,
Northern Railway, Allahabad.
2. Senior Divisional Electrical Engineer, Northern
Railway, T.M.S. Kanpur.
3. C.T. Finance Officer, L.R. Northern Railway,
Allahabad.

By Advocate Shri A.K. Gaur

O_R_D_E_R (Oral)

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

While posted as Helper Khalasi(Class IV post) at Allahabad, the applicant was allotted quarter no.84-A in the year 1987. The applicant was transferred to Kanpur w.e.f. 04.3.1993, but he continued to occupy the quarter at Allahabad and that he continues even at present. The matter came up before Auditor during audit of the accounts and it was found that the applicant is liable to pay

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damage rent for unauthorised occupation at a ^q rate of ~~Rs.1500/-~~ per month and a sum of ~~Rs.1,37,159-74~~ was outstanding against the applicant on account of damage rent which was to be realised from him. Accordingly the order was passed for recovery of this amount. Through this O.A., the applicant has come up impugning the recovery mainly on two grounds. First, that the damage rent as well as the arrears for unauthorised occupation has been calculated taking into account that the applicant is occupying a type II residence whereas the residence in occupation of the applicant is only a type I quarter. Second ground is that the applicant can be subjected to realisation of double the normal rent or 10% of his basic salary, whichever is higher, whereas the amount calculated is much more than the double of normal rent, what to say of 10% of his basic salary.

2. The respondents have contested the case and filed the counter-reply.

3. Learned counsel for the applicant mainly emphasised that the applicant is being subjected to damage rent taking the normal rent for a quarter of type II standard, whereas the applicant is occupying a quarter of Type I and also that the amount calculated is much higher than it could be by imposition of damage rent. Shri A.K. Gaur, learned counsel for the respondents emphasised that as per respondents case, the applicant is actually occupying a type II

residence and the damage rent and arrear of rent have been calculated accordingly.

4. Keeping in view the arguments placed from either side and the pleadings, the most relevant factor, which comes out from para-6 of the C.A., runs as under;

2Para-6

That while working at Allahabad the applicant was allotted railway quarter no. D Type I of 84 A Block at G.R.P. Colony Allahabad prior to 1.7.1987 but, due to clerical error it was shown as quarter no. 84 A Type II on the office record. As such, during audit inspection in the month of January, 2000, damage rent has been charged of Type II quarter and ~~clerk~~-calculation of total amount of Rs.1,37,159-74 was made upto January, 2000 for unauthorised occupation."

Shri A.K. Gaur, learned counsel for the respondents also co-related the pleadings in this para with the facts as have been mentioned in para-22 of the C.A., which is as under:-

"Para-22

That the contents of para 4.15 of the O.A. need no comments. After audit inspection the Audit Officer has worked out the damage rent to the tune of Rs.1,37,159-74 since 4.3.1993 to January, 2000 for unauthorised occupation of Railway Quarter No.84-AD Type II G.R.P. Colony, Allahabad and a advice was sent to Senior Divisional Electrical Engineer/TMS, Kanpur vide office letter dated 17.5.2000 for recovery of the ~~dam~~-damage rent. Further

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it is pointed out that the applicant was actually-appointed allotted Type I quarter no.D of 84 A Block G.R.P. Colony, Allahabad and due to clerical error it was shown on the office record as Quarter No.84-AD Type II. As such Audit Officer Allahabad has charged the damage rent of Type-II Quarter as per rules and the damage rent may be recovered from the salary of the applicant. Further, it is stated that the applicant is not Electrical Fitter at present. In the Railway Class IV staff are entitled for type I quarters and not for Type II as per rules."

5. From the perusal of the above referred pleadings from the side of the respondents, it is quite apparent that the applicant is in actual possession of quarter no.D-Type I of 84 Block at G.R.P. Colony, Allahabad and it was due to clerical error that it was shown as quarter no.84-A Type II (emphasis provided).

6. For the above, it is found that the matter needs to be re_examined in the light of above observation and fresh order be passed mentioning therein the amount to be realised from applicant as outstanding damage rent and the current deductions. Till the fresh order is passed, the impugned orders annexure A-1 and A-2 shall remain in abeyance. The O.A.stands disposed of accordingly. No cost.



Member (J)

[M.M.]