

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.82 OF 2002
ALLAHABAD THIS THE 24TH DAY OF FEBRUARY, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

S.K. Mishra,
S/o Sri Dhaneshwar Mishra,
R/o Village & Post-Kasli,
District-Deoria.

.....Applicant

(By Advocate Shri B. Tewari)

Versus

1. Union of India,
through the General Manager,
N.E. Railway,
Gorakhpur.

2. Divisional Operating Manager,
N.E. Railway,
Varanasi.

.....Respondents

(By Advocate Shri Anil Kumar)

O R D E R

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, applicant has challenged the order dated 26.09.2001 by which respondent no.2, Divisional Operating Manager, has directed to recover the damage rent from the salary of the applicant for unauthorised retention of the Railway Quarter No.LI/15-B at Railway Station in Indara.

2. The facts of the case are that the applicant was posted at Indara Junction. He was transferred from Indara Junction to Chhapra. It is admitted fact that the applicant took charge on 04.03.1990 though order of transfer was passed in November 1989. The applicant joined at Chhapra as Trains Clerk and continued to be in the occupation of the quarter



allotted to him at Indara for which penal rent was directed to be recovered from him which was challenged in this Tribunal by filing O.A. No.1088/93. By order dated 02.11.1993, the O.A. was allowed and the order directing recovery of the amount of penal rent from the salary of the applicant was quashed. The applicant has not handed over the possession of the quarter till date though he was transferred in 1989 and he had shifted to another station where he joined as Trains Clerk but he still occupies the Railway Quarter. The order has been passed on 26.11.2001 for recovering the damage rent. A full Bench Judgement of this Tribunal in Ram Poojan Versus U.O.I. & Others 1996 (34) ATC 434 (F8) has held that in such matters no specific orders cancelling allotment is necessary. The penal rent can be recovered from the salary without ~~insisting~~ ^{initiating} the proceedings under Premises (Vacation of unauthorised occupant) Act 1971.

3. The respondents have filed CA. In para 12 it has been stated that the matter has already been referred to ~~estate~~ ^{state} Officer under Public Premises (Vacation of Unauthorised Occupant) Act 1971 to get the applicant evicted from the unauthorised occupation. In para 10 it is mentioned that applicant was given a notice dated 01.04.2002 cancelling his allotment and intimating him to vacate the same. The respondents have also mentioned the Railway Boards circular dated 15.01.1990 which authorises to recover damage rent from the employee retaining possession of the quarter in an unauthorised manner.

4. Considering the facts and circumstances of the case, it appears that though applicant was transferred in 1989, ^{retaining} he is still ~~occupying~~ the possession of the quarter illegally though about 13 years have already passed. The proceedings under Public Premises (Vacation of unauthorised occupant)

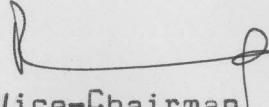


Act 1971 ~~may take~~ a long time, during this period, The Railway has authority to realise the damage rent.

5. Learned counsel for the applicant placed reliance on the circular dated 20.04.2000 received by Railway Board in pursuance of the interim order of the Delhi High Court in Writ Petition No.5057 of 1999. I have gone through the circular. However, it does not help the applicant in any manner of the case.

6. ~~In my opinion~~, I do not find anything illegal in the order, requiring interference by this Tribunal specifically in the present case. The O.A. has no merit and is accordingly dismissed.

7. There will be no order as to costs.


Vice-Chairman

/Neelam/