

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 29th day of January, 2003.

original Application No. 72 of 2003.

Hon'ble Mrs. Meera Chhibber, Member- J.

R.N. Sharma S/o Sri Shanker R/o Loco Colony,  
129/J, Mughalsarai, Distt. Chandauli.

.....Applicant

Counsel for the applicant :- Sri S.K. Dey  
Sri S.K. Mishra

V E R S U S

1. Union of India through the General Manager,  
East Central Railway, Hajipur, Bihar.
2. The Senior Divisional Personnel Officer, East  
Central Railway, Mughalsarai, Distt. Chandauli.

.....Respondents

Counsel for the respondents :- Sri K.P. Singh

O R D E R (oral)

(Hon'ble Mrs. Meera Chhibber, Member- J.)

By this O.A, the applicant has challenged the order dated 09/29.12.2002 (annexure A- 4) whereby he has been informed that "in terms of Hon'ble Tribunal's order dated 10.12.2001 the damage rent from 28.09.92 to 09.10.1993 has been calculated as amount total Rs. 9759/- @ of Rs. 787.60 P.M. according to plinth area. You are, therefore, requested to please deposite Rs. 9759/- in the Railway Booking Office in cash and submit the receipt within 15 days from the date of receipt of this letter failing which the same will be recovered from your monthly salary in suitable instalments.".



2. The grievance of the applicant is that when the earlier O.A was decided he was not aware that the applicant had already been made to deposit the rent and penal rent with regard to Quarter No. 584-B, Gaya but when he verified the position from the Account Section, he was given a certificate on 06.01.2003 to the effect that he has already deposited the quarter fee for Quarter No. 584-B from September, 1992 to <sup>had B</sup> February, 1994. Accordingly, he <sup>had B</sup> immediately given representation on 07.01.2003 to the Sr. Divisional Personnel Officer (respondent No. 2) mentioning these facts and requested him to withdraw the order dated 09/29.12.2002. The applicant's counsel has submitted that respondents have not decided the said representation so far. Therefore, he <sup>had B</sup> has <sup>not</sup> other option to ~~have~~ approached the court for protection.

3. On the other hand, learned counsel for the respondents has submitted that the opening sentence of the impugned order itself shows that this order has been passed interms of the Tribunal's order dated <sup>allowed to B</sup> 10.12.2001, therefore, applicant cannot be reagitated the same matter which has already been decided by the Tribunal. He has submitted that this O.A is thus not maintainable.

4. I have heard both counsel for the parties and applied my mind to the facts as stated by the counsel.

5. Counsel for the respondents sought time to file reply so that he may clarify the position but looking at the ~~narrative~~ compass of the matter, I do not think it appropriate to delay the matter by calling reply from the respondents <sup>for</sup> ~~for~~ reasons.

6. It is seen that when the applicant had filed the

earlier O.A No. 62/2000, he had challenged the order dated 17.08.1999 whereby applicant was declared to be unauthorised occupant of quarter in question at Gaya and damage rent was to be recovered from him. Result The Tribunal has recorded its findings at each paragraphs namely in para 3 it has been observed that in other words, the applicant was admittedly in unauthorised occupation of quarter in question during this period. Therefore, the respondents are justified to recover the damage rent in respect of the quarter in question for the period, the applicant remained in quarter till December, 1993. Similarly, in para 6 it has also been observed that "the impugned order dated 28.12.1999 is liable to be quashed except in respect of admitted unauthorised occupation of the quarter in question by the applicant after his transfer till 09.10.1993". In Operative portion of the judgment, the Tribunal quashed the order dated 28.12.1999 for recovery of damage rent from the applicant for the period from 10.10.1993 till the date of filing of the O.A. However, the respondents were given liberty to recover the damage rent from the applicant for the period 28.09.1992 till 09.10.1993 as per rules. Therefore, it is absolutely clear that the same matter was adjudicated upon by the Tribunal in earlier O.A as well, and yet the Tribunal had held that respondents could recover the damage rent from 28.09.1992 till 09.10.1993, therefore, it cannot be said to be any illegality in the impugned order passed by the respondents.

7. However, there is one aspect of the matter which would require to be looked in-to by the respondents namely that if the applicant had already been made to pay the rent or penal rent for the same period with regard to the same quarter, definitely that amount

would have to be deducted from the damage rent being claimed by the respondents. The applicant has already given his representation to this effect on 07.01.2003 which is annexed as annexure- 6 with the O.A and the certificate which is alleged to have been issued by the office of D.R.M, East Central Railway, Mughalsarai on 06.01.2003.

8. Without going into the merits of the case as that aspect has already been concluded by the earlier O.A, this O.A is being disposed of at the admission stage itself by giving direction to the respondents to apply their mind to the facts as stated by the applicant and also to verify the position from their Accounts Section with regard to the certificate alleged to have been issued by them and to pass ~~the~~ final and speaking order within a period of three months from the date of receipt a copy of this order. Till such time the respondents ~~pass~~ their final orders, they are directed not to make recovery from the applicant's salary.

9. With the above direction the O.A is finally disposed of with no order as to costs.



Member- J.

/Anand/