

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

CALCUTTA

No.O.A.363/96

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

AMAL KUMAR ROY

VS

UNION OF INDIA AND ORS.

For the applicant : Mr. B.R. Das, counsel

For the respondents : Ms. B. Ray, counsel

Heard on : 1.2.99

Order on : 1.2.99

O R D E R

Main question for determination in this case is what type of quarters has been allotted at Anara before his transfer from Anara to Adra. Admittedly the applicant was declared unauthorised occupant at Anara. The Tribunal in O.A.No.570 of 1990 passed the following order :-

"The other prayer regarding the fixation of penal or damage rent ~~is being~~ considered by us and we would like to observe that the railways are entitled to recover penal or damage rate of rent as per law and this right of the railways has been discussed at length in J.K. Chatterjee's case, as mentioned hereinbefore. To be precise, we would like to observe that railways are required to approach the forum of the Estate Officer for this purpose and without doing that they are not entitled to recover any damage or penal rent unless the applicant himself agrees to pay."

According to the applicant he was allotted ^{type-III} quarters at Anara ^{with} standard plinth area of which was not above 55 sq.m.

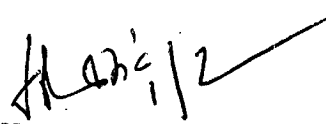
But the Railways Authority charged damage rent for the said quarters ^{of} standard plinth area of which was 147 sq.m. according to their calculation. So, the grievance of the applicant is that the Railway Authorities cannot claim damage rent for

the standard plinth area of 147 sq.m. since the standard plinth area of the quarters enjoyed by the applicant at Anara was 55 sq.m.

2. Respondents filed reply stating inter alia that they approached the Estate Officer for the purpose of recovery of damage rent for unauthorised occupation of the quarters at Anara by the applicant since he was declared as unauthorised occupant after his transfer from Anara to Adra. On my query Ms. Ray could not enlighten me that what type of quarters has been allotted to the applicant at Anara. But she submits that the matter is now pending before the Estate Officer for decision.

2. In view of the aforesaid circumstances, I find that the entire controversy will be dissolved if the standard plinth area of the quarter enjoyed by the applicant at Anara is determined by the authorities. As per Annexure 'G' to the reply (page 13) it is found that the standard plinth area of type-III quarters should not exceed more than 75 sq.m. However, in view of the submissions made by Mr. Das I find that the matter is pending before the Estate Officer. So, before decision of the Estate Officer the Tribunal should not act on that. Thereby the application is disposed of. Liberty is given to the applicant to file a fresh application if ~~he~~ he thinks fit and proper after the decision taken by the Estate Officer.

3. No order is passed as to costs.


(D. PURKAYASTHA)
MEMBER(J)