

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA.

O.A.No. 584 Of 1996

Bipat ..... Applicant.  
Vs.  
Union of India and ors ... Respondents.  
For the applicant : Shri Sudama Pandey  
For the respondents: Shri P.K. Verma.

C O R A M  
Hon'ble Smt. Shyama Dogra, Member (J)

61./ 19.08.2003. O R D E R  
(Dictated in Court)

By Shyama Dogra, M(J):-

This Original Application has been preferred by the applicant for direction to the respondents to stop recovery of damage rent , with further prayer to refund the excess amount so recovered from the labour pay sheet of November & December, 1995 on account of damage rent over normal rent.

2. Briefly, the facts of the case, as set out in the OA, are that the applicant prayed for allotment of quarter No. E 21 A at Thanabihpur on account of vacation of said quarter by <sup>one</sup> Janaki, Fitter Gr. I vide Annexure A/1. The applicant, however, occupied that quarter with effect from 1.1.1995 without obtaining any allotment order from the authority concerned.

3. The applicant was, however, allotted quarter No. E 81/B Type II at Thanabihpur vide Annexure -2 dated 25.2.1995, but the applicant could not occupy that quarter , because the person already occupying that quarter did not vacate that quarter. Therefore, the applicant kept on

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occupying the quarter No. E/21-A <sup>Type-II,</sup> till his retirement on 31.7.2001.

4. The respondents have started making recovery from the retiral dues of the applicant, inspite of the fact that the said quarter No. E/21A at Thanabihpur was allotted to the applicant. The respondents have started recovery of Rs. 725/- from the labour pay sheet from the month of November, 1995 and Rs. 1000/- during December, 1995 and onwards without showing the cause to the applicant for deduction of the said amount. Even his remaining DCRG amount has not been paid.

5. The applicant has also preferred representation to the Assistant Engineer, N.E. Railway, Thanabihpur vide Annexure -3 series, but nothing has been done by the concerned respondents till date. It is also pleaded by the applicant that he belongs to Scheduled Caste Category, and the said deduction of damage rent as well as withholding of his DCRG on the part of the respondents is arbitrary and is in violation of the principle of natural justice.

6. The respondents have filed written statement and submitted that the said quarter No. E/21A Type II has never been allotted to the applicant, as he was not entitled for allotment of said quarter, and he has forcibly occupied that quarter after breaking lock of the said house. He has also been issued notice to vacate the said quarter vide Annexure R-4, but the applicant did not vacate that quarter till his

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retirement. Therefore, in view of the various provisions of the Railway Rules, he is treated as unauthorised occupant of the said quarter, and he is liable to pay damage rent. The details of the said damage rent has also been mentioned in Annexure R-5 1 and R-5.

7. The applicant by filing rejoinder has reiterated his claims and denied <sup>of</sup> any notice having been served upon him by the respondents for vacation of that quarter, and further submitted that since quarter No. E/21-B which was allotted to the applicant was not vacated by the person concerned, therefore, he could not occupy that quarter, and since he was posted at Thanabihpur, he kept on occupying the said quarter No. E/21-A till his retirement on verbal order of the authority concerned. However, the applicant has not placed any relevant documents in support of his contentions.

8. I have heard the learned counsel for the parties and gone through the records. After perusal of the record, it appears that the matter involves certain disputed question of facts, particularly to the effect that the quarter No. E/81 B Type II, which was allotted to the applicant was allegedly occupied by some other person, and therefore, the matter is required to be looked into by the concerned authority, while giving consideration to all these factual position of the case.


9. In view of this, the matter is referred to respondent no. 2 to decide it after hearing the applicant,

*Signed*

who is at liberty to file a fresh representation for redressal of his grievances, and thereafter respondent no. 2 is directed to pass appropriate reasoned and speaking order, after making proper inquiry into the matter, in accordance with law and relevant rules on the subject within a period of 2 months from the date of receipt/production of copy of this order. It is, however, made clear that while passing such order, respondent no. 2 will keep in mind that the applicant has remained posted at Thanabihpur during that period.

10. In view of these observations and directions as above, this OA stands disposed of, with no order as to costs.

/CBS/

  
(SHYAMA DOGRA) 19.8.03  
MEMBER (J)