

(S) (19)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW BOMBAY BENCH

O.A. No. 379/86

~~TxXXXNo.~~

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DATE OF DECISION 18.7.91

B.D. Desai

Petitioner

Mr. J.J. Limaye

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Mr. A.L. Kasturey

Advocate for the Respondent (s)

### CORAM

The Hon'ble Mr. U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

*U.C. Srivastava*  
( U.C. Srivastava )  
V/C

(20)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.379/86.

Bhalchandra Deorao Desai,  
Durga Niwas, Plot No.63,  
Road No.3, Pandurang Wadi,  
Goregaon (East),  
BOMBAY - 400 063.

.. Applicant.

v/s.

1. Union of India, through  
D.R.M., Western Railway,  
Bombay Central, Bombay.

2. Divisional Safety Officer,  
Bombay Central, Western Railway,  
Bombay - 400 008.

3. Shri Y.V. Patkar,  
Assistant Station Master,  
Rat T-4, Railway Quarters,  
Jogeshwari,  
BOMBAY - 400 060.

.. Respondents.

CORAM : Hon'ble Justice Shri U.C. Srivastava, Vice  
Chairman.

Hon'ble Shri M.Y. Priolkar, Member (A).

Appearances:

Mr.J.J. Limaye, Advocate  
for the applicant and  
Mr.A.L. Kasturey, Advocate  
for the respondents.

ORAL JUDGMENT

DATED: 18.7.1991.

¶ PER : Hon'ble Shri U.C. Srivastava, Vice Chairman ¶

The original applicant, who died during the pendency of this case and is now represented by his legal representative, has approached the Tribunal praying that an amount of Rs.10,817.75 was recovered from his salary towards the rent of the house which he had vacated and prayed that the railway authority may be requested to recover the same from the respondent No.3 and be

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directed to pay the recovered amount to the applicant and interest at the rate of 12% may also be paid. Earlier two more reliefs were also claimed by him. The original applicant was a railway employee and he was allotted a railway quarter on 24.10.1979. He moved an application for sharing the accommodation with another railway employee i.e. Respondent No.3 and the Respondent No.3 also moved same application. The permission for the same was granted vide order dated 1.9.1980 and in the order it was provided that sanction was accorded subject to the condition that in case the main allottee is transferred elsewhere for any reason, he will have to vacate the railway quarter and sanction accorded to the sharing of accommodation will automatically be cancelled, in that case he will have to vacate the railway quarter without any notice from the administration. Before actual sharing of railway accommodation starts he will have to fill in the agreement duly signed and submitted to the office. Thereafter the said applicant shifted to a private accommodation rented by him and intimated this fact to the railway authorities vide his letter dated 5.2.1982 and requested that the above quarter may be transferred to Shri Y.V. Patkar, Respondent No.3, and that he has vacated the quarter and permission to sharing the accommodation stands cancelled automatically and a request was also made that presence of the other person may be declared as unlawful and proceedings against him may be taken. The

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railway authorities vide letter dated 6.7.1981 rejected the prayer for the out of turn allotment to Shri Patkar and informed him that he will be allotted a quarter when his turn comes. He was also asked to vacate the quarter and the permission granted for sharing the accommodation was discontinued. It appears that Shri Patkar did not vacate the quarter and the railway administration did not evict him from the quarter and continued to deduct the rent of the quarter from the applicant. The applicant made several representations as Shri Patkar was not vacating the quarter. On 7.6.1984 the applicant again requested the railway administration to take possession of the quarter as he is vacating the same and the joint occupation is cancelled vide letter dated 6.8.1982.

Notwithstanding the repeated requests of the applicant and surrender of the premises the railway administration did not take any action to evict Mr. Patkar but on the contrary continued to recover rent of the premises from the applicant from his salary. Respondent No.3 did not appear before the Tribunal despite service of the application. It was the duty of the Railway administration to take action against Respondent No.3 for the unlawful occupation of the premises especially when intimation was given to him to vacate the quarter. If someone in the railway administration failed to take such action, the applicant alone will not be made to suffer. After taking

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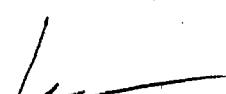
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into consideration the special facts and circumstances of this case we direct the railway administration to refund 50% of the amount which has been so realised from the applicant to the legal heirs of the applicant within three months of communication of this order.

It is for the railway administration to realise the 50% amount from the Respondent No.3. We again make it clear that this order has been passed by taking into consideration the special facts and circumstances of this case and we have not laid down any precedent in the case. There will be no order as to costs.

  
( M.Y. PRIOLKAR )  
MEMBER(A).

  
( U.C. SRIVASTAVA )  
VICE CHAIRMAN.