

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O. A. No. 953/93

Shri Gulab Kalbhande

.... Applicant

Vs.

Divisional Railway Manager (E)
Western Railway, Bombay Central,
Bombay - 400 008.

Estate Officer, and
Sr. Divisional Engineer(s)
Western Railway, Bombay Central,
Bombay - 400 008.

Union of India
Through General Manager
Western Railway, Bombay Central,
Churchgate, Bombay - 400020.

.... Respondents

Coram : Hon'ble Shri M. R. Kolhatkar, Member (A)

Appearance

Shri C. Nathan Counsel
for the applicant.

Shri A. L. Kasture counsel
for the respondents.

JUDGMENT

Dated : 22-2-94

(Per : Hon'ble Shri M.R. Kolhatkar, Member (A))

This is an OA., under section 19 of A.T. Act. The Applicant retired from Railway service on 30-06-1992 but at the time of his retirement, DAR proceedings were pending against him. The eviction proceedings under Public Premises (Eviction of Unauthorized Occupants) Act 1971 were started against the Applicant and competent authority passed eviction order on 31-08-1992.

2. "The reliefs prayed for by the Applicant are as below :-

(a) "to quash and set aside the order of eviction dated 31-08-1992 in Exh./A.

(b) to order the Respondent to allow the Applicant to stay in Quarter No.149/9,

Santa Cruz (East) till the Applicant is exonerated of the charges in the DAR enquiry, or the DAR Enquiry against the Applicant is completed.

- (c) to order the Respondent No. 1 & 3 forthwith to pay to the Applicant his retirement benefits such as gratuity etc, amounting to Rs. 1,00,000/- with market rate of interest.
- (d) to order the Respondents not to charge the Applicant any penal rent, but nominal rent of Rs. 55/- per month till the Applicant is exonerated of the charges in the DAR enquiry.
- (e) to grant such other reliefs as may be just and expedient in the facts and circumstances of this case, including costs of this application."

3. On 13-09-1993, this Tribunal restrained respondents from evicting the Applicant from Railway Quarters Occupied by him and the same was continued till 03-12-1993. It is not disputed that the Applicant has vacated the Railway quarter on 23-12-1993. The Respondents have filed their reply and the applicant has filed a rejoinder. We have heard the counsel for both the sides and we have to consider whether Applicant is entitled to anyother reliefs and to what extent.

4. According to Respondents, Applicant has been paid the following pensionary benefits :-

	<u>Item</u>	<u>Amount</u>
1.	Provident Fund	Rs. 27,595.00
2.	Employess Group Insurance Scheme (EGIS)	Rs. 3,624.00
3.	Encashment of leave Salary	Rs. 38,648.00
4.	Pension @ Rs.1413 + relief w.e.f. 01-07-1992	

5. However, an amount of Rs. 1,05,733/- (Rs. 46,613.00 under Gratuity of Rs. 59,120.00 under commutation of pension.) has been with-held by the Respondents on account of the fact that Applicant being in unauthorized occupation of the Railway quarter with effect from 01-07-1992 at least an amount of Rs. 22,787=86 (Rs. 22,657=80 on account of Penal Rent and Rs. 120=86 on account of Electricity Charges.) will be due from him till 15-10-1993.

6. The Applicant has relied on Central Administrative Tribunal, Principal Bench, Judgment in Madan Mohan Vs. Union of India vide 1993(2)SLJ 56. This judgment which relied on Supreme Court Judgment in Union of India Vs. Shiv Charan, 1992 A.T.C.(19) 129, had held that action to recover penal rent can be taken only under PPE Act. We follow the decision and dispose of the Application by passing the following order.

O R D E R

1. Respondents to pay to the Applicant withheld portion of the gratuity and Commutation of Pension minus the normal rent of the Railway quarter and the charges from the date of retirement of the Applicant till the date of vacation of the quarters. The payment should be made to the applicant within a month of the receipt of the order. Applicant is not held entitled to any interest on the delayed payment of DCRG etc. However, Respondents are held liable to pay interest @ 12% if the balance amount is not paid within a month of this order as directed.

2. Respondents are at liberty to recover the Penal Rent/Market Rent for unauthorized occupation of Railway quarters, Under provisions of PPE Act.

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3.

No order as to costs.

M R Kolhatkar

(M. R. Kolhatkar)
Member (A)