

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 13085 of 2025

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1. The Union of India through the General Manager, Eastern Railway, 17, Neta Jee Subhash Road, Kolkata, Pin Code- 700001 (W.B).
 2. The Chief Workshop Manager, Eastern Railway Workshop, Jamalpur, District- Munger, Pin Code- 811214 (Bihar).
 3. The Workshop Personnel Officer, Eastern Railway Workshop, Jamalpur, District- Munger, Pin Code- 811214 (Bihar).
 4. The Principal Financial Advisor, Rail Wheel Plant, Bela, District- Saran, Pin Code- 841221 (Bihar).

... .. Petitioner/s

Versus

Amol Kumar Singh Son of Late N.K.P. Singh, Deputy Chief Material Manager, Rail Wheel Plant, Bela, District- Saran- 841221 (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. K.N. Singh, ASG Mrs. Parul Prasad, CGC Mr. Aditya Anand, Adv. Mr. Shivaditya Dhari Sinha, Adv. Ms. Shristi Singh, Adv. Mr. Abhinav, JC to AGG
For the Respondent/s	:	Mr. M.P. Dixit, Adv. Mr. S.K. Dixit, Adv. Mr. S.K. Chaubey, Adv. Mr. Shailendra Kumar, Adv. Mr. Punit Ranjan Dixit, Adv. Mr. Milind Raj Dixit, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 31-03-2026

The present writ petition has been filed assailing the order dated 27.03.2025 passed by the Ld. Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Ld.



CAT') in O.A. No. 050/00335/2020, whereby and whereunder the original application filed by the sole respondent has been allowed and the impugned orders dt. 24.08.2020 and 24.08.2019 have been quashed, with a direction to the petitioners to refund the amount, if any, recovered from the salary of the applicant/respondent.

2. The brief facts of the case are that while the sole respondent was posted as Sr. Material Manager, Eastern Railway, Jamalpur, he was allotted a Railway Quarter No. 729, Elbert Road, East Colony, Jamalpur, during his stay from the month of June, 2013 to July, 2017. The sole respondent was then transferred to Headquarter Office at Kolkata and was relieved with effect from 14.07.2017 to join his posting at Kolkata on 17.07.2017 on promotion in JAG on *ad hoc* basis. The sole respondent was again transferred from Kolkata to Malda vide order dated 20.07.2018. In the meantime, the sole respondent had filed an application for retention of the aforesaid quarter at Jamalpur on account of education of his daughter as also on the premise that no other quarter had been allotted to him at the transferred places, whereupon the Assistant Personnel Officer, Eastern Railway, Jamalpur vide letter dated 20.10.2017 had though granted permission to the respondent for retention of the



said quarter from 15.09.2017 to 31.03.2018 on educational ground of his daughter, however at double the flat rate of license fee, whereafter vide order 24.04.2018, the respondent was again granted permission for retention of the aforesaid quarter on educational ground for the period 01.4.2018 to 15.4.2019 subject to payment of special license fee i.e. double of the flat rate/rent. The sole respondent was again transferred by an order dated 25.01.2019, issued by the Railway Board under the signature of Director (Establishment), Railway Board from Malda to Rail Wheel Plant, Bela (Saran). The respondent had in the meantime, applied for further retention of the Railway Quarter at Jamalpur but his request was rejected vide letter dated 14.05.2019, issued by the Assistant Personnel Officer, Eastern Railway, Jamalpur and the respondent was directed to vacate the railway quarter immediately, failing which necessary license fee as per Rule would be charged with effect from 16.04.2019.

3. It is a matter of record that the respondent could not be relieved in the month of January, 2019 to join his posting at Rail Wheel Plant, Bela (Saran), however he was finally released from Malda to join at Rail Wheel Plant, Bela (Saran) vide office order dated 28.06.2019, whereafter the respondent had reported at Rail Wheel Plant, Bela (Saran) on 22.07.2019, after availing ten days



joining time. Thereafter, the Assistant Personnel Officer, Eastern Railway, Jamalpur vide letter dated 24.08.2019 had requested the respondent to vacate the railway quarter at Jamalpur, failing which damage rent would be charged with effect from 16.04.2019 and onwards @ of Rs. 12,280/- per month for the unauthorized occupation. It appears that the sole respondent had then filed an appeal, however the same was rejected and the Workshop Personnel Officer, on behalf of the Chief Works Manager, Eastern Railway, Jamalpur vide letter dated 07.09.2019 had again requested the sole respondent to vacate the quarter immediately. The Assistant Personnel Officer, Eastern Railway, Jamalpur had again, vide letter dated 28.05.2020 asked the sole respondent to vacate the railway quarter being occupied by him at Jamalpur by 31.05.2020, failing which action would be taken as per extant rules, however the respondent did not vacate the railway quarter, leading to the Assistant Personnel Officer, Eastern Railway, Jamalpur issuing a letter dt. 24.8.2020, wherein it has been observed that since the respondent is in unauthorized occupation of the quarter at Jamalpur, damage rent has been calculated for the unauthorized period i.e. 16.04.2019 to 31.07.2020 to the tune of Rs. 10,36,143/-. The respondent had then vacated the aforesaid quarter on 21.08.2020.



4. At this juncture, it would be relevant to mention here that the Railway Board by a letter dated 19.05.2020, issued by the Director, Establishment (Genl.), Railway Board, in view of the spread of Noble Corona Virus (COVID-19) had *suo motu* allowed retention of railway accommodation by officers/staffs for the period from 17.03.2020 to 30.06.2020 and had also prescribed that in cases where such allottees have become unauthorized occupant of government accommodation prior to 17.03.2020, for the said period, damage charges at telescopic rate would not be levied, nonetheless the same would be resumed after the retention period upto 30.06.2020 comes to an end. The Railway Board vide letter dated 01.07.2020 and 31.07.2020 had extended the *suo motu* retention period up to 15.07.2020 and 31.10.2020 respectively.

5. The respondent had then filed an original application bearing O.A. No. 050/00335/2020 *inter alia* praying therein to quash the order dated 24.08.2020, issued by the Assistant Personnel Officer, Eastern Railway, Jamalpur, whereby and whereunder damage rent to the tune of Rs. 10,36,143/- has been levied for the period 16.04.2019 to 31.07.2020. The respondent had relied upon Master Circular No. 49 (RBE No. 135/2019) dated 20.08.2019, RBE No. 38/2020, RBE No. 47/2020 and



RBE No.61/2020, issued by the Railway Board to contend that an officer who has been allowed to retain quarter at the previous place before transfer to Rail Wheel Plant, Bela (Saran) is permitted to retain quarter till 31.10.2020 and on account of COVID-19, the Railway Board vide circulars/letters dated 19.05.2020, 01.07.2020 and 31.07.2020 has allowed *suo motu* retention of railway quarter for the period up to 31.10.2020, therefore, since the respondent has vacated the quarter on 31.08.2020, he has not retained the quarter in an unauthorized manner for even a single day, thus question of levy/recovery of damage rent does not arise, hence the order dated 24.08.2020, issued by the Assistant Personnel Officer, Eastern Railway, Jamalpur, is fit to be set aside.

6. The petitioners herein had filed written statement before the Ld. CAT in the aforesaid O.A. No. 050/00335/2020 *inter alia* contending therein that the respondent was transferred from Jamalpur to Kolkata in the month of July, 2017, whereafter he had jointed at Kolkata on 17.07.2017 and then he was transferred to Malda by an order dated 20.07.2018, nonetheless at the request of the respondent, he was permitted retention of quarter firstly from 15.07.2017 to 14.09.2017 at normal rate of license fee and thereafter, from 15.09.2017 to 31.03.2018 as also from



01.4.2018 to 15.4.2019 at double the rate of license fee, however the respondent did not vacate the quarter after 15.04.2019 resulting in several reminders dated 14.05.2019, 24.08.2019, 07.09.2019 and 28.05.2020 having been issued to the respondent wherein he had been declared to be unauthorizedly occupying the quarter in question w.e.f. 16.04.2019, hence damage rent has been levied upon the respondent for the period 16.04.2019 upto 31.07.2020 to the tune of Rs. 10,36,143/- and recovery is being made in suitable installments, thus there is no illegality in recovery of the damage rent, as has been directed to be made vide order dated 24.08.2020.

7. The Ld. CAT after hearing the parties had formulated the issue involved in the said original application to the effect as to whether the previous place of posting of the applicant is to be treated at Jamalpur or Malda. The Ld. CAT, by the impugned order dated 27.03.2025, taking into account the fact that no quarter was allotted to the respondent either at Kolkata or Malda has held that the previous place of posting of the respondent should be treated as Jamalpur. Thus, considering the fact that the respondent was allotted quarter at Jamalpur and not at the new place of posting, the Ld. CAT has held that the previous place of posting of the respondent would be treated as Jamalpur, hence by



the impugned order dated 27.03.2025, the Ld. CAT has allowed the original application filed by the respondent and quashed the impugned orders dt. 24.8.2020 & 24.8.2019 as also has directed to refund the amount, if any, recovered from the salary of the applicant/respondent within a period of 3 months.

8. The Ld. Additional Solicitor General of India, appearing for the petitioners herein, while assailing the impugned order dated 27.03.2025 has first referred to the Master Circular No. 49 (updated in August, 2019) with regard to allotment of quarters and retention thereof on transfer etc., clause 10.3.1(f) as also 10.3.3 whereof are reproduced herein below:-

“10.3.1 Northeast Frontier (NF) Railways:

(f) In the event Railway officer/staff on transfer from one place to another involving change of residence has been permitted to retain the Railway accommodation at the previous place of posting as permissible under the relevant instructions and during the period of such authorised retention of Railway accommodation, the officer/staff is again transferred to N.F. Railway in that case the place where the employee is in authorised retention of Railway accommodation in terms of the permission granted in his/her favour by the competent authority may be taken as the "previous place of posting" for the purpose of retention of Railway accommodation provided that the concerned employee has not been allotted any regular accommodation at the new place of posting. These instructions shall also apply to cases where retention of quarter is/had been permitted under any other general or specific order of the Ministry of



Railways.

10.3.3 Rail Wheel Plant (RWP), Bela, Distt-Chhapra, Saran, Bihar.

In terms of Railway Board's letter No. E(G) 2012 QR 1-15 dated. 03.12.2012 (RBE No.136/2012) approval of the Railway Board was conveyed by relaxing the existing rules/provisions permitting Railway Officers/staff posted to Rail Wheel Plant (RWP), Bela (Dist-Chhapra, Saran, Bihar) to retain Railway accommodation at their previous place of posting on payment of normal rent upto 02.12.2017. The retention period has been extended beyond 02.12.2017 upto 31.03.2020."

9. The Ld. Additional Solicitor General for the petitioners has submitted, by referring to the Master Circular No. 49, that first of all clause 10.3.1(f) postulates that in case a Railway Officer/Staff on transfer from one place to another involving change of residence has been permitted to retain the railway accommodation at the previous place of posting and during the period of such authorized retention of railway accommodation, the said officer/staff is again transferred to N.F. Railway, then in that case the place where the employee is in authorized retention of railway accommodation in terms of the permission granted by the competent authority may be taken as the previous place of posting for the purpose of retention of railway accommodation, provided no fresh accommodation has been allotted at the new place of posting. Thus, it is submitted that firstly, the sole respondent was not transferred to N.F. Railway, hence the said



provision would not be applicable to his case and secondly, while he was transferred to Rail Wheel Plant, Bela (Saran) he was in unauthorized retention of railway accommodation, hence the previous place of posting cannot be considered to be Jamalpur but would definitely be Malda. As regards, clause 10.3.3 of Master Circular No. 49, it is submitted by the Ld. Additional Solicitor General that the provision contained therein regarding retention of railway accommodation at the previous place of posting on payment of normal rent up to 31.03.2020 would be applicable in the case of the respondent with effect from the date of his joining at Rail Wheel Plant, Bela (Saran) i.e. 22.07.2019, however prior to the joining of the respondent at Rail Wheel Plant, Bela, the retention of the accommodation by him at Jamalpur had been declared to be unauthorized, hence considering the previous place of posting of the petitioner to be Malda, no relief can be granted since the respondent was not having any railway accommodation at the said place. Nonetheless, the Ld. ASG has fairly submitted that for the COVID-19 period, as per the mandate of the circulars of the Railway Board dated 19.05.2020, 01.07.2020 and 31.07.2020, the petitioners are not required to charge penal rent for the period 17.03.2020 to 31.07.2020, hence correction has been



made, resulting in reduction of the damage rent from a sum of Rs. 10,36,143/- to Rs. 6,58,289/-. Thus, it is submitted that the impugned order dated 27.03.2025 passed by the Ld. CAT is fit to be set aside.

10. *Per contra*, the Ld. Counsel appearing for the sole respondent Sri Munna Prasad Dixit has submitted that the Master Circular No. 49, especially clause 10.3.1(f) will definitely be applicable in the case of respondent inasmuch as vide RBE No. 198 of 2001 dated 04.10.2001, the Railway Board has clarified that the instructions issued by the Railway Board will also apply to cases where retention of quarter is/had been permitted under any other general or specific order of the Ministry of Railways, including eligible cases of retention of quarters on transfer to new zones. Thus, it is submitted that since the respondent was allowed to retain quarter at Jamalpur while he was transferred to Kolkata and then to Malda, whereafter he had stood transferred to Rail Wheel Plant, Bela (Saran), the previous place of posting would definitely be Jamalpur. Hence, considering clause 10.3.3 of the Master Circular No. 49, the respondent would be eligible to retain quarter in an authorized manner since 15.04.2019, the day prior to the date of declaration of the sole respondent to be in unauthorized occupation of the



quarter in question i.e. 16.04.2019, inasmuch as the petitioner was though transferred to Rail Wheel Plant, Bela (Saran) vide order dated 25.01.2019, however he was relieved only on 28.06.2019, whereafter he had joined Rail Wheel Plant, Bela (Saran) on 22.07.2019. Thus, it is submitted that there is no infirmity in the impugned order dated 27.03.2025, treating Jamalpur to be the previous place of posting and accordingly, setting aside the orders dated 24.08.2020 and 24.08.2019 respectively, hence no damage rent is required to be recovered from the sole respondent.

11. We have heard the Ld. Counsel for the parties and find that the facts of the present case lie in a narrow compass inasmuch as the sole respondent was allotted quarter at Jamalpur in the month of April, 2015, whereafter he was relieved with effect from 14.07.2017 to join his new place of posting at Kolkata and then he was transferred vide order dated 20.07.2018 to Malda. In the meantime, the respondent had applied for retention of the railway accommodation at Jamalpur, which was allowed on the ground of education of his daughter up to 15.04.2019 vide various orders. The respondent was then transferred from Malda to Rail Wheel Plant, Bela (Saran) vide order dated 25.01.2019, however he was relieved from Malda



only on 28.06.2019, whereafter he had joined at Rail Wheel Plant, Bela (Saran) on 22.07.2019. The respondent had finally vacated the quarter at Jamalpur on 31.08.2020. We find, upon taking into account the factual aspect of the matter that the issue which has arisen for consideration is as to whether the respondent is liable to pay damage rent for the period 16.04.2019 to 16.03.2020, inasmuch as the petitioners in their second supplementary affidavit filed in the present case have conceded to the extent that the respondent is not eligible to be charged at the penal rate/damage rent for the COVID-19 period i.e. 17.03.2020 to 31.07.2020/31.08.2020 and accordingly a sum of Rs. 3,77,854/- has been reduced from the damage rent of Rs. 10,36,143/-, hence the respondent is now liable to pay damage rent only to the tune of Rs. 6,58,289/-. It is not in dispute that the respondent was allowed retention of quarter for the period 15.07.2017 to 14.09.2017 at normal rate of license fee and for the period 15.09.2017 to 15.04.2019 at double the flat rate of license fee, whereafter he had become an unauthorized occupant of the quarter at Jamalpur with effect from 16.04.2019.

12. We would first advert to the issue raised by the respondent to the effect that since the respondent had stood transferred to Rail Wheel Plant, Bela (Saran) vide order dated



25.01.2019, the effect of the provision contained in clause 10.3.3 of Master Circular No. 49 would come into play and the respondent would be entitled to retain railway accommodation at his previous place of posting on payment of normal rent up to 31.03.2020. As far as this aspect of the matter is concerned, we find that since the respondent was relieved from Malda to join Rail Wheel Plant, Bela (Saran) only on 28.06.2019, where he had joined on 22.07.2019, the relief whatsoever emanating out of clause 10.3.3 of Master Circular No. 49 would be available to the respondent only with effect from the date of his reliving/ joining at Rail Wheel Plant, Bela (Saran), i.e. 28.06.2019/ 22.07.2019.

13. Now, coming to the issue raised by the Ld. ASG to the effect that the Ld. CAT, in the impugned order dated 27.03.2025 has committed a grave error by treating the previous place of posting of the respondent to be not Malda, not Kolkata but Jamalpur, by relying on clause 10.3.1(f) of the Master Circular No. 49, we are of the view that firstly the said clause would be applicable in cases where the second transfer of any officer/staff is made to N.F. Railway, however in the present case the transfer of the sole respondent has not been made to N.F. Railway. Even if RBE No. 198/2001 dated 04.10.2001 is considered, reliance



whereof has been made by the Ld. Counsel for the respondent, we find that the same speaks of applicability of the instructions in eligible cases of retention of quarters on transfer to new zones. However, we find that in the present case, while the respondent was transferred from Jamalpur to Kolkata to Malda, the zone had remained the same, hence considering the fact that retention of quarter was allowed to the respondent at Jamalpur while he was transferred to Kolkata/Malda, which do not fall under a new zone, the said circular dated 04.10.2001 would not be applicable. Thus, for the purposes of applicability of clause 10.3.1 of Master Circular No. 49, the respondent was required to be transferred to N.F. Railway from Kolkata, however instead he was transferred to Malda, which also lies in the same zone, thus in the case of the sole respondent the previous place of posting for the purpose of retention of railway accommodation would not be Jamalpur but Malda, especially in view of the fact that even if clause 10.3.1(f) of Master Circular No. 49 is taken into account, the same talks of authorized retention of railway accommodation, however on the day on which the sole respondent was relieved from Malda to join Rail Wheel Plant, Bela (Saran) i.e. 28.06.2019, he was an unauthorized occupant of the railway accommodation at Jamalpur, hence the previous place of posting



would definitely be not Jamalpur but Malda.

14. Nonetheless, we find that the respondent was relieved from Malda to join at Rail Wheel Plant, Bela (Saran) on 28.06.2019, where he had joined on 22.07.2019, thus as per clause 10.3.3 of Master Circular No. 49, since the Railways Officers/ Staffs posted at Rail Wheel Plant, Bela (Saran) have been permitted to retain railway accommodation at their previous place of posting on payment of normal rent up to 31.10.2020, it would be in the interest of justice and equitable to direct the petitioners not to charge damage rent for the period 28.06.2019 to 16.03.2020 and instead charge penal rent at double the flat rate of license fee, especially in view of the fact that the respondent is to superannuate on 31.03.2026 and if sizable amount of recovery is made, the same would entail grave hardship to him, however as regards the period 16.4.2019 to 27.06.2019, for which the petitioners have charged damage rent, no interference is warranted. Accordingly, the aforesaid amount of penal/damage rent be re-calculated within a period of one week from today.

15. Having regard to the facts and circumstances of the case and for the foregoing reasons, the impugned order dated 27.03.2025, passed by the Ld. CAT in O.A. No. 050/00335/2020



is modified to the aforesaid extent. Consequently, the petitioners are directed not to charge damage rent for the period 28.06.2019 to 16.03.2020 and instead charge penal rent at double the flat rate of license fee, however as far as the period 16.4.2019 to 27.06.2019 is concerned, the damage rent levied by the petitioners does not suffer from any infirmity.

16. It is needless to state that the present judgment is being passed in the peculiar facts and circumstances of the instant case and shall not be treated as a precedent. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	17.03.2026
Uploading Date	31.03.2026
Transmission Date	N/A

