

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1619 of 2025

Suresh Prasad Rajak, aged about 61 years, s/o Late Ram Das Rajak, r/o Samridhi Apartment, Flat No.4A, Khatal Road, P.O.-ISM Dhैया, P.S.- Barbada, District -Dhanbad, Jharkhand.

... .. Petitioners

Versus

1. Union of India through Divisional Railway Manager, East Central Railway Dhanbad, P.O. & P.S. Dhanbad, Dist.-Dhanbad.
2. Additional Divisional Railway Manager, East Central Railway Dhanbad, P.O. & P.S. Dhanbad, Dist.-Dhanbad.
3. Sr. Div. Personal Officer, East Central Railway Dhanbad, P.O. & P.S. Dhanbad, Dist.-Dhanbad.
4. Station Manager (Gaz.) East Central Railway Dhanbad, P.O. & P.S. Dhanbad, Dist.-Dhanbad.
5. Sr. Section Engineer (Works), East Central Railway Dhanbad, P.O. & P.S. Dhanbad, Dist.-Dhanbad.

... .. Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner : Mr. Vijayant Verma, Advocate
For the Respondent : Mr. Abhijeet Kr. Singh, C.G.C.

08/Dated: 06th February, 2026
Per Sujit Narayan Prasad, J.

1. The instant writ petition under Article 226 of the Constitution of India is directed against the order dated 15.10.2024 passed in O.A. No.051/00698/2022 by the learned Central Administrative Tribunal, Circuit Bench, Ranchi whereby and whereunder, the learned Tribunal has dismissed the said original application by passing the following order:

“21. From the above factual analysis in the light of relevant rule, enunciated in the Railway Services (Pension) Rules 1993, Railway Master Circular No. 49 and OM dt. 20th October, 2023 issued by the D/o Pension & Pensioners' welfare, we do not find any infirmity in the letter no. TT/48/MISC/22, dt. 24.02.2022 of the competent authority for deduction of damage rent against unauthorized retention of occupied railway quarter no. 53 CD for the period from 15.12.2017 to 03.12.2021. and in the order dt. 25.03.2022 issued by the Sr. Divisional Engineer (Estate), ECR Dhanbad for deduction of damage rent Rs.11,19,544/- in favour of applicant and communicated to Sr. Divisional Personnel Officer, Dhanbad for deduction of the same, (Annexure-A/2) and Rs. 11,19,544/- has been deducted/ recovered vide his order dt. 25.03.2022 from his retirement gratuity.”

2. The brief facts of the case as per the pleading made in the writ petition having been enumerated as per the pleading which is available in the original application needs to be referred here which is as under:

The applicant, petitioner herein, joined on 07.02.1986 under the E.C. Railway, Dhanbad to the post of Assistant Station Manager and superannuated on 31.01.2022 from the post of Station Manager, Hirodih Railway Station.

Case of the applicant is that after retirement all retiral dues were paid to him but an amount of Rs.11,19,544/- has been deducted/recovered on account of unauthorized retention of railway quarter for the period 15.12.2017 to 03.12.2021 from the amount of retirement gratuity vide order dated 24.02.2022 issued by respondent no.3 and letter dated 25.03.2022 issued by respondent no.6 wherein details of recovery amount has been shown.

The case of the applicant as per the original application is that while he was posted at Sindri BH, a railway quarter at Station Road, Rangatand, Railway Quarters Colony, Dhanbad vide letter dated 15.06.2014 was allotted to him. It is stated that the applicant was transferred from Sindri BH to HRE (Hirodih) on 18.10.2017 and relieved on 15.12.2017.

The petitioner/applicant retained abandoned railway quarter at Rangatand, Dhanbad till 03.12.2021 and during that period normal quarter rent, electricity charges, water charges have been deducted from the salary of the applicant.

After retirement without any show cause notice, the amount of Rs.11,19,544/- has been recovered/deducted from gratuity amount of the applicant against damage panel rent.

It is also stated that the Station Manager, Hirodih has issued a certificate dated 22.08.2022 stating that the applicant was not provided any railway accommodation at Hirodih Station during his posting.

Applicant has submitted representations dated 31.01.2022 & 31.03.2022 to respondent authorities for not deducting the panel rent.

Thereafter, applicant sent a memo of appeal dated 11.06.2022 on 22.07.2022 through speed post before respondent no.2 but to no effect.

Thereafter, the original application being O.A. No.051/00698/2022 was preferred by the petitioner before the learned Central Administrative Tribunal, Circuit Bench, Ranchi and the learned Tribunal has dismissed the said original application.

3. The admitted fact as per the pleading made as referred hereinabove is that the petitioner joined on 07.02.1986 under the E.C. Railway, Dhanbad to the post of Assistant Station Manager and superannuated on 31.01.2022 from the post of Station Manager, Hirodih Railway Station. It is the case of the petitioner that after retirement all retiral dues were paid to him but an amount of Rs.11,19,544/- has been deducted/recovered on account of unauthorized retention of railway quarter for the period 15.12.2017 to 03.12.2021 from the amount of retirement gratuity vide order dated 24.02.2022 issued by respondent no.3 and letter dated 25.03.2022 issued by respondent no.6 wherein details of recovery amount has been shown.

The case of the petitioner as per the original application is that while he was posted at Sindri BH, he was allotted a railway quarter at Station Road, Rangatand, Railway Quarters Colony, Dhanbad vide letter dated 15.06.2014. It is stated that the applicant was transferred from Sindri BH to HRE (Hirodih) on 18.10.2017 and relieved on 15.12.2017.

The petitioner retained abandoned railway quarter at Rangatand, Dhanbad till 03.12.2021. After retirement, the amount of Rs.11,19,544/- has been recovered/deducted from gratuity amount of the petitioner against damage panel rent.

It is also stated that the Station Manager, Hirodih has issued a certificate dated 22.08.2022 stating that the petitioner was not provided any railway accommodation at Hirodih Station during his posting. The petitioner has submitted representations dated 31.01.2022 & 31.03.2022 to respondent authorities for not deducting the panel rent. Thereafter, the

petitioner sent a memo of appeal dated 11.06.2022 on 22.07.2022 through speed post before respondent no.2 but to no effect.

4. The petitioner, being aggrieved with the quantification of the amount of damage rent vide orders dated 24.02.2022 issued by respondent no.3 and letter dated 25.03.2022 issued by respondent no.6, had approached before the learned Tribunal by filing original application being O.A. No.051/00698/2022 by taking two-fold grounds:
 - (i) The condition of the quarter was not good since it has been admitted by the respondent-railway itself that the condition of the quarter is not fit to be used but even then, the petitioner has lived in the said quarter in consequence of the allotment of the said quarter on his own risk.
 - (ii) There is no provision for recovery of the damage rent from the amount of gratuity since the Gratuity Act is to govern by the Payment of Gratuity Act, 1972.
5. The learned Tribunal had called upon the respondent-Railway.
6. The respondent-Railway had filed written statement alongwith the justification of making said demand.
7. The ground had been taken that the quarter which had been allotted in favour of the petitioner had been allotted by virtue of the allotment order issued by the competent authority in which the petitioner had resided till his transfer from the place where the said quarter was there and remained in the occupation from 15.12.2017 to 03.12.2021. As such, the petitioner is liable to damage rent in pursuance of the Circular issued by the Railway by virtue of Office Memorandum dated 20.10.2023. Accordingly, the calculation has been made quantifying the amount to the tune of Rs.11,19,544/- which has been recovered and the rest of the amount has been paid under the head of Gratuity in favour of the petitioner.
8. The Gratuity is to be paid under the Railway Services (Penson) Rules, 1993 (hereinafter referred to as the Rules, 1993) wherein the provision has been incorporated as under Rule 15(2) that in case of recovery of damage

rent in consequence of retention of quarter beyond the valid period, the amount is to be recovered by way of damage rent from the Gratuity.

9. The learned Tribunal has considered the aforesaid justification and agreeing to the quantification made by the respondent, has dismissed the original application which is the subject matter of the present writ petition.

Submission of the learned counsel for the petitioner:

10. Mr. Vijayant Verma, learned counsel for the petitioner has submitted that the learned Tribunal has not taken into consideration the very aspect of the matter that the condition of the quarter was so worse that it was not fit to be allotted in favour of any other employee but even then, the damage rent has been quantified to the tune of Rs.11,19,544/-.
11. The contention has been raised that the amount which has been recovered is exorbitant for the purpose of making recovery from the gratuity and there cannot be any recovery of the amount from the amount of Gratuity since there is no provision available under the Payment of Gratuity Act, 1972.

Submission of the learned counsel for the respondent:

12. *Per contra*, Mr. Abhijeet Kr. Singh, learned Central Government counsel appearing for the respondent-Railway has submitted by taking the ground that there is no error in the impugned order.
13. It has been contended that the condition of the quarter is not to be assessed at this stage once the allotment of the said quarter has been accepted by the petitioner. Since he has retained the quarter contrary to authorization and as such, as per the policy decision based upon the Office Memorandum dated 20.10.2023, the quantification of the amount has been made which has been decided to be recovered from the amount of Gratuity in pursuance of the provision of Rule 15(2) of the Rules, 1993 coupled with the Office Memorandum dated 20.10.2023.
14. It has been contended that the learned Tribunal has taken into consideration the policy decision for making recovery including the provision of Rule 15(2) of the Rules, 1993 and the Office Memorandum

dated 20.10.2023 by declining to interfere with the impugned decision by making recovery of the amount from the gratuity amount. Therefore, the order passed by the Tribunal cannot be said to suffer from error. Hence, the present writ petition is fit to be dismissed.

Analysis

15. We have heard the learned counsel for the parties and gone through the finding recorded by the learned Tribunal in the impugned order.
16. This Court, before proceeding to deal with the aforesaid ground to consider the legality and propriety of the order passed by the Tribunal, needs to first discuss the power which is to be exercised by this Court under Article 226 of the Constitution of India as held by the Hon'ble Supreme Court in the case of ***L. Chandra Kumar vs. Union of India and Ors., (1997) 3 SCC 261.***
17. The power which is to be exercised as per the position of law is to look into the legality and propriety of the order passed by the learned Tribunal only in a case error apparent on the face of the order or in a case of perversity of finding in exercise of power conferred under the power of judicial review as has been held by the Hon'ble Apex Court at paragraph-99 in the aforesaid judgment. The said paragraph is being referred as under:

“99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the “exclusion of jurisdiction” clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they

question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."

18. This Court, in order to assess as to whether two grounds placed before this Court, i.e., error apparent on the face of the order or element of perversity, has thought it proper to refer the power of judicial review has also been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.

19. The Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39***, has held at paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under:

"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . ---."

20. In the case of ***T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250***, their Lordship have held that the patent error in a decision can be corrected when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

"11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."

21. Thus, on the basis of the aforesaid settled legal position it is evident that the power of judicial review can be exercised, if error on the face of the order impugned, challenged under the Article 226 of Constitution of India, appears to be there.
22. The dispute in the present case is:
- (i) Whether the quantification of amount of Rs.11,19,544/- is justified?
 - (ii) Whether the said amount is to be recovered from the amount of Gratuity?
23. Both the issues since are interlinked, as such, are being taken up together. But, before considering the aforesaid issues, this Court needs to refer herein the applicable rules in the facts and circumstances of the present case.
24. The petitioner since has retired from service from Railway, as such, the Rules, 1993 is applicable. Rules 1993 provides the gratuity to be the part of pension. Provision has been made under rule 15(2) of Rules 1993 for recovery of the amount from the amount of gratuity way of damage rent who has retained the possession of quarter unauthorizedly. For ready reference, the provision of Rule 15(2) of the Rules, 1993 is being referred as under:
- “15. Recovery and adjustment of Government or railway dues from pensionary benefits- (1) For the dues other than the dues pertaining to occupation of Government or Railway accommodation, the Head of Office shall take steps to assess the dues “one year” before the date on which a railway servant is due to retire on superannuation.***
- (1A) The assessment of Government or Railway dues in sub-rule (1) shall be completed by the Head of Office eight months prior to the date of retirement of the railway servant.***
- (Authority: File No. 2015/F(E)III/1(1)/4 dt.17.06.16RB NO.70*
- (2) The railway or Government dues as ascertained and assessed, which remain outstanding till the date of retirement or death of the railway servant, shall be adjusted against the amount of the retirement gratuity or death gratuity or terminal gratuity and recovery of the dues against the retiring railway servant shall be regulated in accordance with the provisions of sub-rule (4).”***
25. The competent authority of the respondent-Railway has come out with an Office Memorandum for the purpose of making recovery from the amount

of Gratuity of the Government dues. The said office memorandum is being referred as under:

“No.28/91/2022-P&PW(B) (1)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Pension and Pensioners' Welfare

3rd Floor, Lok Nayak Bhavan, Khan
Market, New Delhi, Dated the 20th
October, 2023

OFFICE MEMORANDUM

Subject: Adjustment and recovery of Government dues from gratuity payable under the Central Civil Services (Pension) Rules, 2021-reg.

The undersigned is directed to say that Department of Pension and Pensioners Welfare has notified the Central Civil Services (Pension) Rules, 2021 in supersession of the Central Civil Service (Pension) Rules, 1972. Rule 67 of the Central Civil Services (Pension) Rules, 2021 deals with Government dues which can be adjusted and recovered from the gratuity payable to a Government servant under these rules.

2. *As per Rule 67 of the Central Civil Services (Pension) Rules, 2021, it shall be the duty of the Head of Office to ascertain and assess Government dues payable by a Government servant due for retirement on superannuation / retiring otherwise than superannuation/ retired from service The Government dues which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of the retirement gratuity becoming payable.*

3. *The Expression 'Government dues' includes*

(a) dues pertaining to Government accommodation including arrears of licence fee as well as damages (for the occupation of the Government accommodation beyond the permissible period after the date of retirement of the allottee, subletting, unauthorised occupation, transfer to an ineligible office, etc.) and dues or arrears in respect of electricity, water and PNG charge, if any,

(b) dues other than those pertaining to Government accommodation, namely, balance of house building or conveyance or any other advance, overpayment of pay and allowances or leave salary and arrears of income tax deductible at source under the Income Tax Act, 1961 (43 of 1961).

4. *Rules further provides that only the Government dues as referred to in sub-rule (2) shall be adjusted against the amount of retirement gratuity payable to the retired Government servant and any other dues which are not Government dues in terms of sub-rule (2) shall not be recoverable from the amount of retirement gratuity.*

5. *All Ministries/Departments are requested that the above provisions regarding Government dues which can be recovered from Gratuity payable under the Central Civil Services (Pension) Rules, 2021 may be brought to the notice of the personnel dealing with the pensionary benefits in the Ministry/Department and attached/subordinate offices there under, for strict implementation.*

(S. Chakrabarti)
Under Secretary to the Govt. of India

To

*All Ministries/Departments/Organisations,
(As per standard list)”*

26. It is evident from the aforesaid provision as also the office memorandum that the arrangement has been carved out under Rules 1993 of making recovery also of the damage rent on account of unauthorized retention of the quarter from the amount of Gratuity. The government dues have also been defined bringing under its fold the retention of the quarter unauthorizedly.
27. The question of exorbitant quantification is one of the grounds. Admitted fact herein is that the petitioner has not challenged before the Tribunal either the basis of calculation of the amount in lieu of the damage rent as also the validity of Rule 15(2) of the Rules, 1993 and the office memorandum issued in this regard of making recovery of the damage rent from the amount of gratuity.
28. In this context and the statutory provision have been admitted, the quantification of the damage rent has been challenged.
29. The matter was heard by this Court on 07.07.2025 and the Court has called upon the respondent-Railway to justify the basis of the calculation of the amount for the penal rent. The respondent has filed an affidavit in pursuance of the order dated 07.07.2025 bringing on record the detailed calculation chart alongwith the relevant office memorandum by supplying the copy of the same to the learned counsel for the petitioner.
30. The process for the calculation of penal rent has been provided by way of tabular chart and the same has been appended as annexure with the said counter affidavit. Annexure-A and Annexure-D of the counter affidavit are being referred as under:

(i) Annexure-A:

“Detailing of Damage Rent Calculation Sheet

*Sri Abhijeet Kumar Singh
Central Govt. Counsel,
Hon'ble High Court of Jharkhand, Ranchi
R/o Alkapuri (Opp. Ladies Gurudwara),
Ratu Road, Ranchi.*

Mob. No. xxxxxx2167.
Email: xxxxxxxxxxxxkumar@gmail.com

Sub:-W.P.(S) No. 1619 of 2025 before the Hon’ble High Court Ranchi in the matter of Suresh Prakash Rajak vs. Union of India and Others.
Ref:- Hon’ble High Court Ranchi order dtd. 21.01.2026

Reference to the above the required details are as under:-

Rly. Qts. No.53/CD (Type-II) at Dhanbad. The calculation has been done for area 55 sqm as per L. No.F(x)I-2002/11/2 dated 05.11.2020 (copy attached) Annexure-A
Plinth Area – 55 Sqm. (Copy attached) Annexure-A
Toal period of Damage Rent – 15.12.2017 to 03.12.2021 (47 Month 19 days)
(i) Without GPRA period of Damager rent 15.12.2017 to 31.08.2018 (08 Month 16 days)
(ii) With GPRA period of Damager rent 01.09.2018 to 03.12.2021 (39 Month 03 days)
(i) License fee Without GPRA – Period from 15.12.2017 to 31.08.2018 ha been calculated pre GPRA rate-(08 months 16 days), Damage rent-Rs.99/sqm. (copy attached) Annexure-B
55 Sqm x 99 Rs. Damage rate per month x 8 months 16 days
9 months = 55 x 99 x 8 = 43,560/-
16 days = $\frac{55 \times 99 \times 16}{30}$ = 2904/-
8 months 16 days = 43,560/- + 2904 = Rs. 46,464/-
(ii) License Fee With GPRA – Period from 01.09.2018 to 03.12.2021 (39 Month 03 days) has been calculated as per GPRA, Quarter Rent-Rs.240/- (Copy attached) Annexure-A

Sl. No.	Period of Damage rent	Amount	Remarks
1	Damage rent for September ‘2018’	Rs.9600/-	240 x 40 (times) = 9600/- As per Master circular No.49 revised RBE No.135/2019 dt. 20.08.2019 Para no.15 (MoUD’s circular on damage rent is at Annexure-D) (Copy attached) Annexure-C
2	Damage rent for October ‘2018’ (Damage rent + 10% of rate of Damage)	Rs.10560/-	9600 + 10% = 10560/-
3	Damage rent for November ‘2018’ (Damage rent + 20% of rate of Damage)	Rs.11520/-	9600 + 20% = 11520/-
4	Damage rent for December ‘2018’ (Damage rent + 40% of rate of Damage)	Rs.13440/-	9600 + 40% = 13440/-
5	Damage rent for January ‘2010’ (Damage rent + 80% of rate of Damage)	Rs.17280/-	9600 + 80% = 17280/-

6	Damage rent for February '2010' (Damage rent + 160% of rate of Damage)	Rs.24960/-	9600 + 160% = 24960/-
7	Damage rent for March '2019' (Damage rent + 320% of rate of Damage)	Rs.40320/-	9600 + 320% = 40320/-
8	Damage rent for April '2019' (Damage rent + 5 times of Damage)	Rs.48000/-	9600 x 5(times) = 48000/-
9	Damage rent From 01.05.2019 to 16.03.2020 (10 Month 16 days)	Rs.505600/-	48000 x 10 (month) = 4,80,000 $\frac{48000 \times 16 \text{ (days)}}{30} = \underline{25,600}$ 5,05,600/-
10	Normal license fee from 17.03.2020 to 31.12.2020 (Total 09 Month 15 days)	Rs.2280/-	240x9.5 (month) = 2280/- For corona period as per RBE No.103/2020 dt. 28.11.2020 (copy attached) Annexure-D
11	Damage rent for January 2021 to March 2021 (Total 03 Month) (48000 x 3)	Rs.144000/-	48000x3 (month) = 144000/- Again as per GPRa rule.
12	Normal license fee from 01.04.2021 to 30.06.2021 (Total 03 Month) (240 x 3)	Rs.720/-	240x3(month) = 720/- For corona period as per RBE No.36/2021 dt. 08.06.2021 (Copy attached) Annexure-E
13	Damage rent from 01.07.2021 to 30.11.2021 (Total 05 Month)	Rs.240000/-	48000x5(month) = 240000/- Again as per GPRA rule
14	Damage rent from 01.12.2021 to 09.12.2021 (03 days)	Rs.4800/-	$\frac{48000 \times 3 \text{ (days)}}{30} = 4800$

GPRA:- General Pool Residential Accommodation (Total Rs.=10,73,080/-)

Total (i) + (ii) (46,464 + 10,73,080) = 11,19,544/-

Copy to :- Law Officer/E.C.Rly/DHN for information please.

02.2.26
Sr. Divl. Engineer (HQ),
E.C. Railway, Dhanbad.”

(ii) Annexure-D:

“No.18011/1/22015-Pol.III
Ministry of Urban Development
Directorate of Estates

Nirman Bhavan, New Delhi – 110108
Dated the 7th September, 2016

Sub: Revision of rates of damagers for unauthorized occupation of general pool residential accommodation and damages for subletting of general pool

residential accommodation with effect from 1.7.2016 throughout the country – Partial modification – Reg.

1. In partial modification of this Directorate’s Office Memorandum of even number, dated 22nd July, 2016 on the subject noted above, the undersigned is directed to state that the matter of charging damages in cases of unauthorized occupation of GPRA quarters has been reviewed by the competent authority and it has been decided to revise the rates of damages for unauthorized occupation of general pool/residential accommodation for various cities and other stations in the country as below and the revised rates of damages will be applicable to all the unauthorized occupants as on 1.7.2016 and to those who are subsequently declared unauthorized occupant:

Station	Type of Accommodation and Rates of Damages to be charged for the first month				
	Type I to IV	Type IV (Special) to Type VI and Hostel	Type VII and Type VIII	Servant Quarters	Garages
Delhi	40 times	50 times	55 times	50 times	50 times
Mumbai	120 times	120 times	----	50 times	50 times
a) Hyderabad Estate, Belvedere, Pedder Road, BD Road, Malahar Hill, Colba and Prabhadevi					
b) Rest of Mumbai including Hostel at Antop Hill	50 times	50 times	----	50 times	50 times

Station	Type of Accommodation and Rates of Damages to be charged for the first month			
	Type I to IV	Type V and above Hostel	Servant Quarters	Garages
Station other than Delhi and Mumbai	40 times	50 times	50 times	50 times

- 2. Damages for unauthorized Occupation: The damages will be charged from the date of cancellation of allotment to the date the GPRA is vacated by the unauthorized allottee and the rate of damages for unauthorized occupation for each type of general pool residential accommodation shall increase in telescopic method from second month onwards i.e. for second month – damages + 10% of rate of damage; for third month – damages + 20% of rate of damage; for fourth month- damages + 40% of rate of damages and so on, limiting to the maximum 5 times of rates of damages charged during the first month of unauthorized occupation.*
- 3. Damages for subletting: Telescopic method will be made applicable for unauthorized occupation in proved subletting cases w.e.f. 1.7.2016 on all unauthorized occupants as on 1.7.2016 and who will be declared unauthorized henceforth. The rates of damages will be calculated as two times of damages*

for first month, two times of damages + 10% two times of damages for second month, two times of damages + 20% two times of damages for third month; two times of damages + 40% two times of damages for fourth month and so on, limiting to the maximum 5 times of damages charged in such proved subletting cases during the first month.

4. *A ready reckoner for calculation of damages as above is attached.*
5. *Water charges, furniture charges etc. if applicable, will be charged apart from the above mentioned damages at the normal rates only.*
6. *This supersedes this Directorate's O.M. of even number dated 4.6.2013 regarding rates of damages for unauthorized occupation of GPRA and O.M. No.18011/2/2006-Pol.III dated 22.06.2015 regarding rates of damages for subletting of GPRA throughout the country.*
7. *This issues with the approval of competent authority.*

*(Swamali Banerjee)
Deputy Director of Estates (Policy)"*

31. This Court has gone through the quantification in order to assess as to whether the said quantification is justified and in course thereof, has found by taking together the period of unauthorized occupation of the quarter from 15.12.2017 to 03.12.2021 that the same has been calculated on the basis of the policy decision so taken as available in Office Memorandum dated 20.10.2023.
32. Admittedly, the policy decision has not been challenged raising the issue that the calculation which is based upon the policy decision itself suffers from error for the assessment of the damage rent.
33. The question is that when the aforesaid policy decision has not been questioned before the learned Tribunal then, what would have been the basis for the learned Tribunal to come to the conclusion that the quantification so made to the tune of Rs.11,19,544/- is unjustified.
34. It would have been said to be unjustified if there has been no basis but there is basis of quantification.
35. It could also have been said to be unjustified for questioning the policy decision based upon the quantification of the amount has been made to the tune of Rs.11,19,544/- but not questioning the basis and only questioning the quantification of the amount to the tune of Rs.11,19,544/-. The court of law is bound to come to the conclusion that the said quantification is not unjustified since based upon Rule 15(2) of Rules, 1993 and policy decision dated 20.08.2019 [Master Circular No.49 (Revised)].

36. The second issue of recovery of the amount from the gratuity which according to the learned counsel for the petitioner is not permissible.
37. We are conscious that under the Payment of Gratuity Act, being the Central Legislation, there cannot be any recovery from the amount of gratuity subject to any legislation if brought by one or the other establishment. But, herein, we are not dealing with the issue of gratuity under the fold of the Payment of Gratuity Act, 1972 rather we are dealing with the issue of gratuity being part of the pension and herein, admittedly, the petitioner is claiming the amount of gratuity in entirety being covered under the Rules, 1993.
38. The power has been conferred upon the establishment to recover the penal amount being the government dues, arising from the unauthorized retention of the quarter, from the gratuity. As such, since the Rules, 1993 is applicable for the purpose of issue of disbursement of amount of gratuity, hence, the Payment of Gratuity Act, 1972 will not be applicable since there is specific provision under Rule 15(2) of rule 1993 coupled with the office memorandum dated 20.10.2023 issued in consonance with Rule 15(2) of the Rules, 1993 which confers power upon the establishment to make recovery of the government dues which also includes damage rent due to unauthorized retention of the quarter from the gratuity.
39. This Court, therefore, is of the view that taking aid of the Payment of Gratuity Act, 1972, in the facts and circumstances of the present case, is not applicable rather the applicable rule is Rules, 1993 which confers power upon the establishment to adjust the amount pertaining to government dues from the amount of gratuity.
40. So far as the issue of depleted condition of the quarter is concerned, the same cannot be allowed to be agitated at this stage after availing the accommodation of the quarter. The question is that if the condition of the quarter was so worse, then, it should not have been retained rather the option should have been explored for HRA.
41. The admitted fact is that the quarter belongs to the Railway which has been allotted in favour of the writ petitioner who has retained the occupation of

the said quarter without any authority from 15.12.2017 to 03.12.2021, as such, at this belated stage, the ground of quarter being not in a good condition is not allowed to be agitated once availed.

42. This Court, after having discussed the factual as also the legal aspect and advertent to the order passed by the learned Tribunal, has found that the learned Tribunal has taken into consideration the issue of quantification which is based upon the rule 1993 as also the applicability of Payment of Gratuity Act, 1972 by giving a specific finding that the Rules, 1993 confers power upon the establishment to make recovery.
43. As such, this Court is of the view that there is no error apparent on the face of the order or any element of perversity.
44. This Court, in exercise of power of judicial review, is of the view that the order passed by the learned Tribunal needs no interference.
45. Accordingly, the instant writ petition fails and stands dismissed.
46. Pending interlocutory application(s), if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

06th February, 2026

Saurabh/-

AFR

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