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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 91 of 1987

Indra Deo Roy Applicant.

Versus

The Comptroller and Auditor
General of India, New Delhi &
another. Respondents.

Hon'ble S. Zaheer Hasan, V.C.

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 challenging deduction of certain amount ^{to} _{by} from gratuity.

2. The case of the applicant, Indra Deo Roy, is that he was posted in the Revenue Audit in the office of the Accountant General III, U.P., Allahabad from June, 1983 to June, 1984. He had audited certain Units at Tahsils and Town areas Headquarters where there were no facilities for stay, so he stayed at the place other than the place of his duty from June, 1983 to June, 1984. According to the applicant the then Accountant General, U.P., Allahabad, had permitted such facility subject to submission of required certificate from the District Magistrate concerned. The necessary certificate was furnished. The bills were preferred but no objection was raised during his tenure of service. He retired on 31.7.1984 and thereafter a sum of Rs.5,372.80 p. was deducted from his gratuity without giving him any opportunity of being heard. Reliance was placed in the case of K.B. Erry reported in I.L.R. (1967) I P.& H. 278, a

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Full Bench decision. The applicant audited various Units at Tahsils and Townarea Headquarters from June, 1983 to June, 1984. No objection was raised while he was in service. He retired on 31.7.1984 and thereafter the aforesaid amount was deducted from his gratuity without giving him any opportunity of being heard, therefore, the order of deduction of the aforesaid amount from his gratuity clearly violates the principles of natural justice and so it has to be set aside.

3. In another case, ~~W.M.~~ Original Application No. 90 of 1987 filed by Jagdish Chandra Gupta we have quashed the similar order of deduction. ^{We are} ~~and were~~ told that in a number of cases deductions were made from gratuity and representations made against them were rejected. In this case also it was contended that the then Accountant General had permitted such practice and in good faith the applicant stayed at a place other than the place of duty, so ^{in our case} ~~in our case~~ necessary order of relaxation should be passed by the Accountant General and if he is not competent to do so the matter may be referred to the Government for the same. ^{Since the case is being remanded} ~~and~~ ^{all} these arguments can be advanced before the authorities concerned.

4. ~~Since we are remanding the case~~ The impugned deduction from the gratuity of the applicant is hereby quashed. The authorities concerned will pass appropriate order after giving the applicant opportunity of being heard. In case the applicant succeeds the matter ends.

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In case his prayer is rejected he will be at liberty to come to this Tribunal against the order that might be passed against him. Parties to bear their own costs.

Yours
Vice-Chairman.

Dated: August 24th, 1987.

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