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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO:143 of 1991

Date of decision: November 26, 1991

Madan Mohan Roy ... Applicant

Versus

Union of India and others ... Respondents.

For the applicant : M/s.P.Palit, B.Mohanty, Advocates.

For the Respondents : Mr.D.N.Misra, Standing Counsel
(Rly.Admn.)

....
C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE CHAIRMAN

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1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? No
3. Whether Their Lordships wish to see the fair copy of the Judgment? Yes.

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JUDGEMENT

K.P. ACHARYA, V.C.

In this application Under section 19 of the

Administrative Tribunals Act, 1985, the Petitioner prays to quash the order passed by the Competent Authority assessing Rs. 599/- per month payable by the Petitioner for unauthorised occupation of the quarters allotted to him for occupation during his period of service as a Token Porter attached to the Koraput Railway Station.

2. Shortly stated, the case of the Petitioner is that while he was working as a Token Porter in the Koraput Railway Station he had been allotted a Government quarters and he was in occupation of the same. The Petitioner was transferred from Koraput to Komakhan Railway Station in Madhya Pradesh. The Petitioner continued occupation in the said quarters and he sought for permission from the Competent Authority to retain the quarters which was allowed to be retained till 4th June, 1990. The Petitioner not having vacated the quarters by the said date, Penal rent and ~~cost of the damage~~ have been assessed and the Petitioner has been directed to pay Rs. 599/- per month from the date of unauthorised occupation which is challenged and sought to be quashed.

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3. In their counter, the Opposite Parties maintained that such assessment of penalrent and damages is according to the Circular which has been issued by the Railway Board and Ministry of Railways and no illegality has been committed by the concerned authority in regard to such assesment and therefore, the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. Biswajit Mohanty, learned Counsel for the applicant and Mr. D.N.Misra learned Standing Counsel (Railway Administration) at length. The Prayer of the Petitioner allowing him to retain the quarters for two months is admitted and further admitted case is that the Petitioner has vacated the quarters in question since 15th February, 1991 and it is also undisputed that the Petitioner has been assessed penal rent and damages with effect from 5.6.1990 to 15th February, 1991.

5. Mr. Mohanty learned Counsel for the Petitioner contended that since the Mother of the Petitioner was seriously ill and she could not be moved physically to Komakhan, the Petitioner had no other option but to retain the quarters in question and it was further contended by Mr. Mohanty that the total emolument drawn by the Petitioner is Rs. 1000/- only against which the Petitioner is now required to pay Rs.599/- or in other wards Rs.600/- leaving a ~~paltry~~ amount of Rs. 400/- for the sustainer~~er~~ of himself and the members of the family.

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On the other hand Mr. Misra learned Standing Counsel strenuously urged before me that the assessment of penal rent and damages is as per the norms laid down by the Railway Authorities contained in Annexure-A/1 read with C/l. According to Mr. Misra as per the norms laid down in Annexure-1, a Railway Employee, would be at liberty to retain the quarters for only two months on ~~normal~~ rent if permitted by the Competent Authority and such retention would be only on account of educational facilities of the children and sickness. It was further contended by Mr. Misra that sickness of Mother does not ~~leave~~ ^{relieve} the Petitioner of the burden of payment of penal rent and damages because a mother does not come within the definition of 'family' or a 'dependent' relative as stated in Annexure-A/1. I have perused the contents ^{of A/1} to the above effect. No doubt it is stated therein that a Widow mother ~~cannot~~ come within the category of a dependent relative or a family. I am not prepared to accept this position because it is contrary to the provisions of Hindu Law. Admittedly, the petitioner is a Hindu and governed ^{under} in the Hindu Law which clearly envisages, that Widow mother is a dependent and a near relative. Therefore in no circumstances, I ~~can~~ ^{can} pursue myself to accept the contention of Mr. Misra that the Widow mother of the Petitioner cannot come within the category of family or dependent relatives.

Sickness of the mother is not disputed by the Opposite Parties. Of course, the Petitioner has retained the Government quarters beyond the permitted period without further permission having been obtained from the concerned authority. The uncontradicted story of the Petitioner is that the widow mother was seriously ill which must have stood on the way of the Petitioner to remove his family to a distance place like Komakhan and I am of opinion that the penal rent and damages assessed over the petitioner is against the justice, equity and fair play. It is, therefore, directed that from 4.4.1990 to 4.6.1990, the Petitioner would pay normal rent as he was permitted by the competent authority to retain the quarters. From 5.6.1990 to till 15th February, 1991, the petitioner would pay double the normal rent per month and it was further submitted that Rs. 40/- has also been deducted from the Petitioner on this account which is admitted in the counter. Therefore, this amount would be adjusted against the dues payable by the Petitioner in the light of the aforesaid direction. Hence the order imposing the penal rent and damages to the extent of Rs. 599/- payable by the Petitioner is hereby quashed. It was further submitted by Mr. Mohanty that a sum of Rs. 599/- per month has been realised from the Petitioner for the months of March and April, 1991. After adjusting the amount payable by the Petitioner as indicated above, the balance amount should be returned to the Petitioner within 30 days
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from the date of receipt of the application.

6. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.



K. Mohanty
26-11-91
.....
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench/K. Mohanty/26.11.91.