

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 454 of 1991.

Date of decision : April 9, 1992.

Banamali Biswal ...

Applicant.

Verbs

Union of India and others ...

Respondents.

For the applicant . . .

M/s. B. K. Beura,
A. C. Badu,
B. K. Biswal, Advocates.

For the respondents ...

Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

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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 ? M
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes.

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Versus

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JUDGMENT

K. P. ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order passed by the competent authority vide Annexure-1 to recover damage licence fee of Rs. 4332.20 at the rate of 40 per cent of the last paid drawn plus electric charges.

2. Shortly stated, the case of the applicant is that he has retired from the post of Deputy Postmaster, Cuttack Head Post Office, with effect from 31.7.1988. During the incumbency of the applicant in the above mentioned post, government quarters was allotted to the applicant bearing No. Type II B Type in C.T.O. compound within the town of Cuttack. The respondents have assessed damage rent to the extent of Rs. 4332.20 for the said quarters not having been vacated by the applicant after his retirement and this amount has been ordered to be deducted from the gratuity money payable

to the applicant. It has been further ordered that the electric charges payable by the applicant should also be deducted from the gratuity money. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicant had no authority to continue in the said quarters after the prescribed period for occupying the quarters had come to an end and therefore, rightly damage rent was assessed which can be realised from the gratuity money as it was not paid by the applicant. Hence, it is maintained by the respondents that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. B. K. Beura, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Sr. Standing Counsel (CAT) for the respondents at a considerable length.

5. Mr. Beura invited my attention to paragraph 9 of the counter wherein it has been stated as follows:

" The flat rate fixed for the purpose comes under normal licence fee and is valid upto occupation for a period of four months after retirement. "

In view of the above mentioned averments finding place in the counter, it cannot but be said that four months occupation of the said quarters after retirement was not unauthorised. Therefore, in my opinion, the applicant is liable to pay damage rent for 8 months 9 days as he has retained the quarters till 31.7.1989. Now, the question arises as to what should be the damage rent according to the Rules during the period of unauthorised occupation. Turning to Rule 45-B read with Rule 45-A of F.R. (at page 226 of Swamy's compilation of F.R.S.R. Part I of the Rules, August 1989 edition, it will

be found as follows:

" The damage shall be equal to double the standard licence fee under F.R.45-B (or double the ^{pooled} standard licence fee under F.R.45-A. "

Annexure-2 contains the letter No.BDG/15-140(0) dated 20.5.1988 issued from the office of the General Manager, Telecommunications, Orissa in which standard rent for Type II C.T.O. compound, B in the Cuttack town has been fixed at Rs. 75/-, per month. Same is the position in the letter issued by the Postmaster General, Orissa Circle vide memo No.Bldg./15-15/75 dated 7.10.1988 contained in Annexure-R/F. Hence, it cannot be disputed that the applicant is liable to pay the standard rent at the rate of Rs.75/-per month for the quarters in question. According to the provisions in F.R. quoted above, the applicant is liable to pay double the standard rent which comes to Rs.150/-. Hence, the applicant is liable to pay for 8 months 9 days at the rate of Rs.150/- per month and the said amount should be deducted from the total amount of gratuity payable to the applicant. In addition to that the authority concerned should finalise the liability of the applicant for the electric charges and this should be finalised within 75 days from the date of receipt of a copy of this judgment and thereafter the amount payable by the applicant should be deducted from the gratuity money of the applicant and the balance amount remaining to the credit of the applicant should be paid to the applicant within 90 days from the date of receipt of a copy of this judgment.

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

K. G. Sarangi
9.4.92
.....
Vice-Chairman.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
April 9, 1992/Sarangi.

