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Central Administrative Tribunal
Cuttack Bench : CUTTACK.

Original Application No. 220/92

Date of decision : 9.11.92.

Choudhury R.K. Nanda
vs.
Union of India and others

: Applicant.

: Respondents.

for the applicant : Shri Aswini Kumar Misra.
for Respondent No.1 : Shri Ashok Misra
Sr. Standing Counsel (Central)
for Respondent No.2 : Shri K.C. Mohanty,
Government Advocate.

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Hon'ble Shri K.J. Raman, Administrative Member.

1. Whether the reporters of local newspapers may be allowed to see the judgement? YES.
2. To be referred to reporters or not? NO.
3. Whether His Lordship wish to see the fair copy of the judgement ? YES.

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JUDGEMENT

Shri K. P. Raman,
Administrative Member

The applicant originally joined the Orissa Administrative Service (for short O.A.S.) Class II in 1957. He was over-looked for promotion to Class I in 1972, for which he instituted proceedings in the Orissa Administrative Tribunal by filing O.A. Nos. 398/87 and 399/87. The applicant was given relief by the Orissa Administrative Tribunal. The applicant was reconsidered for promotion to OAS Class I from 1972. Consequentially, the applicant was allowed to enter into the Indian Administrative Service (IAS) on 11.10.1985. The notification regarding the promotion of the applicant to OAS (Supertime scale), was however issued only on 9.1.92 with retrospective effect from 25.10.1984. In the meanwhile the applicant retired on superannuation from I.A.S. on 31.8.1990(AN) (Annexure.6). The grievance of the applicant in this application is that he was not paid arrears of pay and allowances for the period in the State service from 26.7.1972 to 1983 and also a special pay from 25.10.1984 to 10.10.1985. Further, the applicant had not been paid the retiral benefits due to him on his superannuation with effect from 31.8.1990(AN). He had therefore filed this application seeking payment of the above dues and also seeking interest at the rate of 12½% per cent on the arrears and dues. In the application the applicant has pointed out that respondent No.2 had

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delayed the payment of above dues without sufficient reasons and the applicant was not even granted provisional pension with effect from 1.9.1990.

2. Respondent No.1 has not filed any reply.

3. Respondent No.2 has filed a reply in which the factual background of the applicant's case is given. It is stated that the delay was due to the time required in the process for complying with the requirements of the rules and procedures. It is stated that respondent No.2 had taken all possible steps for clearance of all the arrears due to the applicant and that almost all the arrears due to the applicant have been settled. It is averred that the delays in the payments were not intentional.

4. The applicant has filed a rejoinder today, in which it is stated that respondent No.2 has paid part of the amounts due to the applicant after the filing of this application. The details of the payments received by the applicant are given therein as shown below:

	<u>Amount</u>	<u>Date of payment</u>
1. Arrear pay as due from 1983.	Rs. 11,430.00 Rs. 48,709.00 Rs. 4,583.00	31.3.1992 10.6.1992 13.8.1992
2. Arrear pension from 1.9.90 to 31.8.1992	Rs. 79,526.00	25.9.1992
3. Commutation of pension.	Rs. 92,629.00	7.10.1992
4. D.C.R.G.	Rs. 75,488.00	not yet released.

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5. It is further stated in the rejoinder that the applicant's DCRG, has been withheld by respondent No.2 on the ground that the applicant had not vacated the government quarters allotted to him. The applicant has stated that he would not have stayed in the government quarters after his retirement if the State Government had paid the amounts due to him on his retirement. The applicant had moved the Orissa High Court in regard to the question of eviction of the applicant from the quarters, in O.J.C. No. 6524/92. The Hon'ble High Court of Orissa in their order dated 22.9.1992 have allowed the applicant to reside in the quarters till 31.12.1992 subject to his making the payment upto date as is payable under the rules. The petitioner (applicant herein) was also directed to submit an undertaking within three days from the date of the judgement, that he would vacate the quarters by the end of December 1992, and if no such undertaking was given, the petitioner shall be liable to be evicted.

learned counsel Shri

6. We have heard Aswini Kumar Mishra for the applicant.

Shri Ashok Mishra, learned Senior Standing Counsel (Central) appeared on behalf of Respondent No.1 and learned counsel Shri K.C. Mohanty appeared on behalf of R.2.

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7. During the hearing today, the learned counsel for both the sides reiterated the facts and contentions briefly indicated above.

8. As already stated, the amounts due to the applicant, the as of today, fall into four categories as indicated in para 4 (supra);

9. As regards item No.1, namely, the arrears of pay as due from 1983, which consists of pay and allowances for the periods from 26.7.1972 to 1983 and from 25.10.1984 to 10.10.1985, it pertains to the period when the applicant was in the State Administrative Service. This Tribunal has therefore no jurisdiction to deal with that and issue any direction in regard to these dues. So far as the amounts due for these periods are concerned, the applicant is free to take necessary action to obtain legal remedy in the appropriate forum. If, however, the applicant is entitled for any dues for the period when he was in the IAS as a result of the fixation of pay in the state government service, he is free to approach this Tribunal in accordance with the rules.

10. The applicant has claimed interest on the amount of pension received by him, for the period 1.9.1990 to 31.8.1992, on 25.9.1992. Similarly, he has claimed interest for the commuted pension which was paid to him on 7.10.1992. In this connection reference is invited to

692

item Nos. 2 & 3 in para 4 (supra). It cannot be gainsaid (including relief) that the payment of pension and the commutation amount of pension to the applicant had been delayed for a very long time. It has is no doubt true that the respondent No.2/stated some reasons for the delay. It cannot, however, be denied that the applicant has been the loser, whatever may be the reason. It is therefore felt that in the interest of equity and justice, the applicant should get at least some moderate interest for the period of delay in the payment of the said on these two amounts dues. Interest at the rate of 12% per annum/for the period their from 1.9.1990 to the dates of/payment would be proper in this case.

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11. The remaining item is/DCRG, which is not yet released to the applicant. As noted above, this amount had not been paid to the applicant on the ground that he had not vacated the government quarters. The Hon'ble Orissa High Court has considered the matter and allowed the applicant time till 31.12.1992 to vacate the quarters till then and to pay rent as per the rules 7 in respect of the quarters.

It is therefore proper that respondent No.2 should pay the applicant the amount of DCRG due to him after deducting the or licence fee rent/chargeable on the quarters, according to normal rules, for the period upto 31.12.1992. If the applicant has any or fee grievance about the rate of the rent/that might be recovered

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from him, that would be a separate issue which is not being adjudicated here. There is, however, no justification for not paying the DCRG to the applicant, particularly after the judgement of the Orissa High Court, referred to above. Even in respect of the DCRG, the applicant is entitled for payment of interest at the rate of 12% per annum from the date of his superannuation to the date of payment.

12. In the result, the application is allowed to the following extent, and the following orders are issued:

- i) No order is being passed by this Tribunal in respect of the claim of the applicant for arrears of pay and allowances for the period of his service before he was enrolled in the IAS, as discussed above.
- ii) The applicant shall be entitled to receive interest and he shall be paid interest, at the rate of 12% on the amounts of arrears of pension (including Relief) and commutation of pension, for the period from 1.9.1990 to the dates of their payment i.e. 25.9.1992 and 7.10.1992 respectively, vide para 4(supra).
- iii) DCRG, due to the applicant, together with interest at the rate of 12% per annum from 1.9.1990 to the date of payment, shall be paid to the applicant after deducting the rent/fee for the quarters as per (iv) below.

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iv) The applicant shall vacate the quarters on or before 31.12.1992 in accordance with the orders of the ~~Orissa~~ High Court referred to above, and rent or fee according to the normal rules is recoverable from him by respondent No.2 for the period for which such rent/fee is due from the applicant, till date of his vacating the quarters.

v) The amounts of interest ordered to be paid as above on all the above items, and also the DCRG after deducting the rent/fee as above, shall be paid to the applicant within a period of one month from the date of receipt of a copy of this order by respondent No.2

vi) There will be no order as to costs.



K.J. Raman
(K.J. Raman)
Member (A)

9.11.92.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Miscellaneous Application No. 285 of 1993

Arising From

Original Application No. 220 of 1993

Date of Decision: 9.12.1993

Choudhury R.K. Nanda

Applicant

Versus

Union of India & Others

Respondent (s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No.


MEMBER (ADMINISTRATIVE)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK**

Miscellaneous Application No. 285/1993
Arising from
Original Application No. 220 of 1992

Date of Decision: 9.12.1993

Choudhury R.K.Nanda Applicant

Versus

Union of India & Others **Respondents**

For the applicant Mr.A.K.Mishra,
Advocate

For the Respondent No.1 Mr.Ashok Mishra
Sr.Standing Counsel
(Central)

For the Respondent No. Mr. K.C. Mohanty
Government Advocate
(State of Orissa)

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C O R A M:

THE HONOURABLE MR. H. RAJENDRA ERASAD, MEMBER (ADMINISTRATIVE)

JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : In this Misc. Petition, the applicant, Shri Choudhury Raj Krishna Nanda, I.A.S. (Retd.) has -

- i) challenged the levy of penal rent by the Government of Orissa in respect of a Government quarter which remained in his occupation after his retirement from service; and
- ii) prayed for a direction to be issued to the State Government to release the D.C.R.G. due to him after subtracting the rent at normal rates already deducted from his pay.

2. The applicant retired from service on attaining the age of superannuation on 31st August, 1990. A residential quarter had been allotted to him earlier

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not vacate the quarters on expiry of the permissible period of its retention after his retirement which resulted in the service of a notice on him and initiation of proceedings under the Orissa Public Premises Eviction Act. The Estate Officer by his order dated 3rd December, 1991, directed the eviction of the applicant, who appealed to the Director of Estates, Government of Orissa, against the said order. The latter merely confirmed the order passed earlier by the Estate Officer whereupon the matter was carried up to the High Court of Orissa. In allowing the Writ petition filed by the applicant, the High Court passed the following orders:

" The petitioner contends that his wife is seriously ill. As a matter of sympathy, we would allow him to reside in the quarters till the end of December, 1992, subject to his making payment upto date as is payable under the Rules. The petitioner is also directed to submit an undertaking within three days from to-day before the Estate Officer that he shall vacate the quarter by the end of December, 1992. If no such undertaking is given, the petitioner shall be liable to be evicted pursuant to the order of the Estate Officer".

On the strength of this order, the applicant continued to reside in the said quarters until he vacated them on 31, December, 1992.

3. The applicant filed an original application before this Tribunal (O.A. No. 220/92) complaining of non-payment of retirement benefits due to him besides some arrears of pay/special pay relating to his erstwhile service with the State Government. In allowing

— T. G. J. —

the said application, this Tribunal directed on 9.11.1992 that -

- a) an interest @ 12% be paid to the applicant on:
 - i) arrears of pension (including Relief) from 1.9.1990 to 25.9.1992;
 - ii) the commuted amount of pension from 1.9.1990 to 7.10.1992; and
 - iii) DCRG from 1.9.1990 to the date of payment after deducting the rent for quarters till the date of his vacating the premises;

The amounts of interest as well as the balance of DCRG due to him were ordered to be paid within one month of the date of the said order.

4. The grievance of the applicant is that these amounts were not paid to him even upto the time of filing this Miscellaneous Application on 5th March, 1993. He further protests that instead of deducting house-rent "payable under the Rules", as directed by the High Court in their judgment dated 22.9.1992 (supra) and "rent or as directed by the Tribunal, fee according to the normal rules", a demand for payment of penal rent, amounting to Rs.58,935/-, has been raised against him for alleged unauthorised occupation of Govt. quarters.

5. According to the applicant, the rent payable in respect of the Govt. quarters comes to Rs.3,365/- as per the following calculations furnished by him :

September, 90 to July, 91 ... Rs.1210/- @ Rs.110/- PM
August, 1991 to December, 92 ^{*}Rs.5525/- @ Rs.325/- PM

(*due to upward revision of rents ordered by the State Govt.)

Total: Rs.6735/-

Rent already paid Rs.3370/-

Balance Rs.3365/-

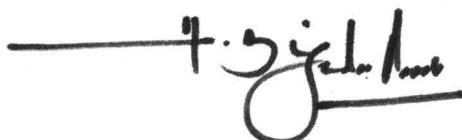
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The applicant contends that an amount of only Rs. 3,365/- ought to be deducted from Rs. 75,488/- being the DCRG due to him (plus 12% interest ordered to be paid thereon by this Tribunal) and the balance should be restored to him.

6. It has been argued on behalf of the applicant that he would not have continued to stay in the quarters even a day longer after retirement had the respondents enabled him to vacate the premises by settling all his retirement dues promptly. This they not merely failed to do, but actually delayed the payment of due amounts to him even after the issue of directions by this Tribunal, besides similarly delaying even the settlement of the arrears of his pay for the period 11.10.1985 to 31.8.1990. The applicant claims that under the circumstances, he is entitled to the interest on these arrears as well, as was earlier ordered to be paid on his other entitlements.

7. Replying to the issues raised by the applicant in his petition, the respondents make the following points:

- a) The arrears of pension (including Relief) and Commutation of Pension have been duly calculated, but the payment thereof shall take time because 'due official procedures' have to be observed.
- b) The officer owes to the Govt- a sum of Rs. 88,509/-, whose break-up is as under:
 - Rs. 22,000/- Motor Car Advance
 - Rs. 7,574/- Interest on above advance
 - Rs. 58,935/- Arrears of House Rent.



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- c) Shri Nanda owns a house in Bhubaneswar.
- d) He did not seek permission to retain the quarter allotted to him as required by rules, because of which normal rent was charged only for one month after his retirement instead of 4 months.
- e) On account of the above, 5 times the standard rent was charged after one month. On the basis of calculation's indicated above the officer owes Rs.13,021/- after adjusting Rs.3,370/- already paid by him.
- f) The Hon'ble High Court had permitted him to retain the quarters till the end of December, 1992, on sympathetic grounds, subject to payment of rent as per rules.
- g) This Tribunal had also ordered in O.A. No.220/1992 that the officer shall have to pay rent and fee as per the rules.
- h) The retention of Govt. quarters by a retired Government Employee is regulated under Rule 107-A of Orissa Service Code.
- i) There was no deliberate delay in the payment of arrears of his pay since the issue was bound-up with necessary orders to be issued by the Govt. of India and the consequent fixation of pay by the State Government. As ^{this} necessitated retrospective calculations, involving public finance, certain time-lapse could not be avoided.

8. In a rejoinder to the counter filed by the Respondents, the applicant reiterates most of his earlier arguments, and also adds the following points :

1. The Respondents have not paid him any of the dues on the ground that official procedures 'will take some time.'
2. The Hon'ble High Court, while permitting the applicant to retain the quarters upto 31.12.1992 ordered recovery of rent according to rule.
3. This Tribunal in O.A. No.22/92 held that rent should be recovered from the applicant according to normal rules.
4. Charging five times the standard rent, instead of the normal rates of rent, cannot be said to be normal.

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5. The decision to charge five times the standard rent as a measure of penalty is based entirely on an executive decision which cannot supersede or obliterate Rule 31 of Special Accommodation Rules, 1959.
6. Recovery of Motor Car Advance and interest thereon has to be effected by the Accountant General, and not by the Respondents.
7. The amounts due to him by way of DCRG plus 12% interest thereon should be determined first before raising any debit against the same, and not vice-versa.
8. It is not true that he did not apply to the Government for retention of Government accommodation after retirement. (Some letters addressed by him to G.A. Department Government of Orissa have been enclosed to the Rejoinder)
9. It is true that he owned a house in Bhubaneswar but it was under the occupation of a tenant and was vacated only on 31.3.1992, after his retirement. The house had had to be repaired before it was fit enough for his own reoccupation.
10. There have been repeated and seemingly deliberate delays in the past, in the matter of promotion, and posting on promotion, besides the payment of arrears of his dues for which he has had to approach the Tribunal on atleast two occasions.

9. I have given a careful consideration to the various arguments and pleadings on behalf of the parties. One way of taking a comprehensive view of the issues involved in this case is to try and find an answers to the following questions:

- i) The Tribunal directed on 9.11.92 that an interest @ 12% be paid to the applicant on account of arrears of pension, commutation of pension, and on DCRG., for a certain specified period. It has now been revealed that though the amounts have been calculated by the Respondent, no payment has actually been effected to him

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On the ground that "due official procedures have to be observed". Is this delay justified ?

ii) The applicant did not seek the permission of the competent authority for the retention of government accommodation beyond the grace period of one month following his retirement. Consequently, no formal permission authorising him to retain the quarters could be issued which resulted in the applicant's continued occupation of the official quarters allotted while he was in service. Was the retention of the quarters by the applicant covered by any order of the Hon'ble High Court or this Tribunal ?

iii) The Hon'ble High Court observed that the recovery or rent for the said quarters should be according to the rules. This Tribunal held that the rent should be recovered according to normal rules. Do either of these orders amount to an authority for continuing to reside in the said quarters by the applicant on normal standard rent ?

iv) The DCRG due to be paid to the applicant with with-held on account of his liability to settle (a) penal rent, (b) Motor-car advance, and (c) interest on outstanding Motor-car advance. Can the dues outstanding from an officer be set-off from his DCRG ?

v) Is the imposition of penal rent justified ?

vi) Is any interest on DCRG admissible on the facts of the present case ?

The outcome of this case would, in my view, depend on the answers to the above questions. I proceed here-under to discuss these questions with a view to finding possible answers, based, wherever necessary, on earlier judicial pronouncement on particular aspects

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of this case.

i) Delay in payment of arrears and interests thereon:

As mentioned in para 3 above, a direction was issued by this Tribunal on 9.11.1992 regarding payment of interest on pension, commutation of pension and DCRG for varying periods from 1st September, 1990, besides the payment of DCRG. All these amounts were required to be paid within one month. The respondents state that, although the interest on ~~with regard to~~ arrears of pension (including relief), and on commutation of pension, have been calculated, the payment to the applicant will 'take time' as due official procedures "will take sometime". They also state that since the applicant was appointed to IAS by promotion retrospectively by the Government of India on 14.11.1991, as modified by corrigendum dated 4.12.1991, the delay in payment was on account of the fact that the calculations had to be made retrospectively, and because of the need to observe normal official procedure by the government which is a time-taking process as it involves public finance. This statement was made on 19.8.1993; i.e., almost nine months after the aforesaid direction was issued by the Tribunal. It is appreciated that retrospective calculations do take time, and that matters involving public finance do necessitate a measure of care and caution to be exercised. Nevertheless, it has to be said that the delay in the present case has been rather inordinate and cannot entirely be justified.

H. J. G.

ii) Retention of Quarters:

The applicant retired on 31.8.1990. As per normal rules, he was entitled to retain the accommodation automatically for ~~not~~ one month, but the same could be extended to four more months by the government, provided he submitted an application as required by rules. There is no evidence to establish that such an application was ever submitted. The officer has annexed certain documents to prove that he credited the advance rent at normal rates for a few months. This action cannot, however, be equated to seeking a proper permission, which, incidentally, involves the signing of an agreement as well. Even after the Estate Officer and the Director of Estates had moved for his eviction, the applicant does not appear to have taken any step in the matter by applying for proper permission to retain the quarters. The Hon'ble High Court in its order dated 22.9. 92 observed as under on this aspect :

" His claim before the Estate Officer as well as the appellate forum was that he is occupying the premises pursuant to an agreement entered into between the Government and himself. A proforma of the alleged agreement has also been annexed to this writ application. This agreement does not contain the signature of either of the parties and there is no meaning in saying that an agreement has been made between them by merely filing a proforma of the agreement."

This Tribunal in its judgment in O.A. No. 220/92 did not choose to comment on this aspect. Under the circumstances and facts emerging from the case, it has to be held that the quarters were retained by the

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applicant without a proper permission from the State Government.

iii) Recovery of rent:

The Hon'ble High Court observed on this aspect as under:

"As a matter of sympathy, we would allow him to retain in the quarters till the end of December, 1992, subject to his making payment upto-date as is payable under the rules."

The Tribunal in its order dated 9.11.1992 observed that Respondent 2 should pay the applicant the amount of DCRG due to him after deducting the rent or licence fees chargeable on the quarters according to normal rules for the period upto 31.12.1992.

8. It needs to be noted that neither the High Court nor the Tribunal, passed any specific view as regards the type, or quantum, of rent recoverable from the officer for his continued retention of the quarters. Instead, they chose merely to refer to rules on the subject.

9. It has been argued on behalf of the applicant that these observations amount to a direction for recovery of normal/standard rent, and not penal rent. But, in view of the facts mentioned above, it is clear that neither High Court nor the Tribunal passed any specific direction which could be construed or interpreted as normal/standard rent.

iv) Withholding of DCRG

The action of withholding the DCRG by setting-off against it dues which are liable to be paid

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by the employee, is an important question in this case. This question has been settled by the Principal Bench of this Tribunal in the case of Smt. Somlata vs. Union of India and Another (O.A. No. 2588/91) (1993 SLJ 565) wherein it was held that the Union of India has a right to withhold the DCRG in full and get the same amount set-off against the dues from an employee.

Recovery of MCA:

10. The applicant has inter alia argued that the matter of recovery of Motor Car Advance and interests thereon is an issue which is to be settled between himself and the Accountant-General and that the Respondents have no concern with the same. This view cannot be accepted for the simple reason that the respondents did not have any choice except to recover the dues from any undisbursed amount lying to the credit of the employee. It matters little whether the issue is settled by the A.G. or by the concerned department of the State Government. In either case, it is eventually only means that the dues have to be paid-up or recovered before the payment of retiral benefits are finally paid to the employee concerned. It is therefore, held that the principal outstanding on account of motor car advance sanctioned to the officer (Rs. 22,000) plus interests thereon can indeed be recovered from the DCRG that becomes payable to him.

PENAL RENT:

11. The most important aspect in this case is the question, whether or not the levy of penal rent is justified in respect of the quarters allotted to the applicant and retained by him beyond the permissible period of occupation.

1. *J. J. S.*

12. This question has been dealt with in O.A.1549/90 by Orissa Administrative Tribunal. In a unanimous judgment delivered by the Full Bench of the State Tribunal it was held in judgment dtd. 25th May, 1992, that the imposition of ten times of the standard rent or market rent for non-vacation of quarters was illegal and the orders regarding imposition of penal rent were quashed. It was also held that the only rent that can be charged is standard rent as prescribed under Rule-31 of the Special Accommodation Rules, 1959. Dealing with this question the Hon'ble Chairman, Orissa Administrative Tribunal, observed as under :

In the Orissa service Code as well as in the Special Accommodation Rules, there is no mention of penal rent whatsoever. There are only two classes of rent which can be charged to a Government servant. Rule 110 mentions about the standard rent which is 6% per annum of the capital cost of the building or a percentage of such capital cost equal to such rate, as may from time to time prescribed by the State Government. The other terms of rent is provided at Rule 111. As per Rule 111(b) (i) "Licence fee during the period of subsistence of allotment at the rate of 7.5 percent of his monthly emolument". Apart from these two kinds of rent, there is no other kind of rent which can be levied on a Government Servant as per Orissa Service Code. There is no mention of any penal rent in the Service Code or in the Special Accommodation Rules. On an examination of the Special Accommodation Rules we find that Rule 4, Rule 11(b) (ii),

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Rule 14, Rule 15(d) (i), Rule 20(ii), Rule 22(ii), Rule 23 and 25 mentions of standard rent. In fact in Rule 25 even for sub-letting a house full standard rent of the residence calculated at the Present day capital cost for the period of such sub-letting is the prescribed rent to be charged. On our examination of the Orissa Service Code, relating to allotment of residence and more particularly in regard to Special Accommodation Rules, we find no mention of penal rent. Therefore, Government order vide Annexure-12 charging 10 times standard rent or market rent which ever is higher from 1.10.90 till the vacation of the quarters is clearly illegal and have to be quashed. In fact, Rule-31 of the Special Accommodation Rules Specifically provides that "where after the cancellation of an allotment under any of these rules the residence continues to be occupied by the officer to whom it was allotted or by any one claiming through him, the full standard rent of the residence at present day capital cost shall be charged for the period of such occupation".

13. I am in agreement with the views and findings of the Orissa Administrative Tribunal in this regard, and hold that the imposition of penal rent is not justified in the present case as well.
INTEREST ON DCRG:

14. As regards the question of payment of interest on the undisbursed amount of DCRG, this Tribunal in its order dtd.9.11.92 has already held that the due DCRG, together with the interest thereon @ 12% per annum from 1.9.90 to the date of payment shall be admissible to the applicant, after deducting from it the rent/fee for the quarters as per orders of the Hon'ble

T. S. J. S. -

27

High Court. This particular question, therefore, does not need any fresh review or adjudication.

15. To sum up, the following are my findings in this case:

- i) the unconscionable delay on the part of the concerned department in settling the retiral benefits of the applicant is unjustified;
- ii) the continued retention of the quarters beyond permissible limits by the applicant was not covered by any authority;
- iii) the Hon'ble Orissa High Court or this Tribunal have expressed no opinion as to the nature and quantum of rent to be levied in respect of continued retention of the quarters by the applicant, as claimed by him;
- iv) the authorities have the liberty to adjust the outstanding dues of the applicant from the D.C.R.G.;
- v) the authorities have also the freedom to recover the motor car advance, and interest thereon, from the amounts payable to the applicant by way of D.C.R.G.;
- vi) the levy of penal rent is not maintainable in law; and
- vii) interest on undisbursed amount of DCRG is payable to the applicant.

16. In the light of the preceding discussion it is directed that :

- 1) the DCRG to which the applicant is entitled will be released, together with 12% interest thereon after deducting the amount of the principal outstanding on account of the unrecovered amount of motor car advance and interest out-standing on the principal amount, till the date of release of D.C.R.G.
- 2) Only standard rent will be deducted from the DCRG. Arrears of rent, if any, will like-wise be deducted from the DCRG. If, however, any excess amount has been credited by the officer, the same will be refunded to him, together with the balance of D.C.R.G.

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17. The above payments will be arranged to be disbursed to the applicant within sixty days of the receipt of this order.

18. Thus, the Miscellaneous application is disposed of. No costs.


MEMBER (ADMINISTRATIVE)

08 Dec 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 1993/ B.K.Sahoo