

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.349 of 1992.

Date of decision: September 16, 1992.

Pitambar Swain ... Petitioner

-Versus-

Union of India and others ... Opp. Parties

For the Petitioner ... Mrs. Meera Das, Advocate

For the Opp. Parties ... Mr. Ashok Mohanty, Sr. St. Counsel
(Railway Administration)

C O R A M:

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

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 His Lordship wish to see the fair copy of the judgment? Yes.

//****

J U D G M E N T

5

(9)

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the impugned ^{order} ~~or~~ of imposition of damage rent vide Annexures 4 and 5 and further prayer is to allow the petitioner to continue in the quarters bearing No. 11(tyep1) in Kaushalya Gango.

2. Shortly stated the case of the petitioner is that he has since been transferred from Kaushalya Gango and has been occupying the Government quarters for which damage rent has been assessed over the petitioner and he has been asked to vacate the quarters. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the petitioner having been transferred from Kaushalya Gango, he is bound to vacate the quarters because the employees stationed at Kaushalya Gango are to be given the quarters according to their eligibility and in case the petitioner will ^{be allowed} ~~allow~~ to continue, it would ~~be~~ jeopardised the interest of the others. Further more it is submitted that the damage rent has been assessed on the basis of the order passed by the competent authority contained in Annexure B/1 dated 18th January, 1992.

4. I have heard Mrs. Meera Das learned counsel appearing for the petitioner and Mr. Ashok Mohanty learned Senior Standing Counsel, for the opposite parties.

5. It was submitted by Mrs. Meera Das that the petitioner should be allowed to continue in the quarters

✓

as he has not been transferred from the organisation namely institute of Fresh Water Aquaculture and therefore, ^{eviction} ~~evict him~~ from the quarters in question would be detrimental to the interest of his family especially the wife of the petitioner who is seriously ill. It was further submitted by Mrs. Meera Das learned counsel appearing for the Petitioner that the damage rent is very high and a poorly paid employee like the petitioner would be very difficult to pay such a heavy amount. Therefore, it should be directed that ~~ordinary~~ monthly rent which was being paid by the Petitioner ^{namely} Rs. 45/- per month should be assessed on the petitioner for payment.

6. On the other hand Mr. Ashok Mohanty learned Standing Counsel for the Opposite Parties vehemently opposed the prayer of the petitioner ^{and} submitted that the quarters in question is situated within the premises of Kausalya Gango and the petitioner having been transferred to a place outside Kausalya Gango he should vacate the quarters in question in order to make the same available to other deserving employees. It was further submitted by Mr. Mohanty that the damage rent assessed on the petitioner is according to the order passed by the competent authority under Annexure R/1 and the petitioner having accepted the same, it is no longer open to him to go back and dispute payment of such amount. Once a particular employee remains under unauthorised occupation of a Government quarters he is liable to pay damage rent especially when his occupation is permitted on condition that he would pay damage rent. Therefore, no illegality

has been committed by the competent authority in assessing the damage rent.

7. I have given my anxious consideration to the arguments advanced at the Bar. The question of occupying the quarters any further by the petitioner does not arise. I find there is substantial force in the contention of Mr. Ashok Mohanty that the employee station^{ed} within the premises of Kausalya Gango would be entitled to the quarters in question and therefore, the petitioner cannot be allowed to behave in a manner which would be adversely ~~effective~~^{affect} the interest of other employees. Therefore, it was submitted on behalf of the Petitioner and the Petitioner himself present in court agreed that he would vacate the quarters in question by 31st October, 1992. In view of this undertaking the petitioner is permitted to keep the quarters in question till 31st October, 1992 and he must hand over the ~~vacate~~^{vacant} possession of the quarters in the forenoon of 1st November, 1992. Subject to this condition, the petitioner will pay rent at the rate of Rs. 90/- per month namely doubled the ordinary rent which was being paid by him with effect from 18th January 1992 to 31st October, 1992. It was very difficult on my part to ascertain the exact amount of ordinary rent which was being paid by the petitioner but the amount of Rs. 45/- per month said to have been paid by the Petitioner per month during occupation of the quarters is on the basis of Annexure 7 ^{relied upon} made by the petitioner. If this fact is correct, then the petitioner would pay Rs. 90/- per month during the above mentioned period.

In case the petitioner was paying Rs. 45/- per month

8

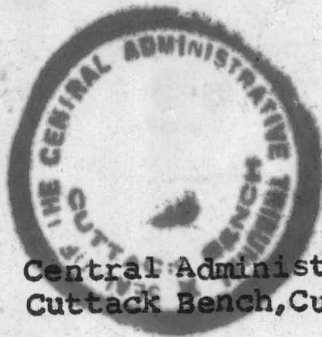
(12)

4

then as indicated above, he has to pay Rs.90 per month during the aforesaid period. The total amount comes to Rs.900/- approximately and the exact amount should be calculated by the office out of which the petitioner is said to have been paid some money which would necessarily be deducted from the total amount and out of the remaining amount the petitioner would pay Rs.35/- per month in order to liquidate the amount outstanding ^{against} ~~over~~ the petitioner.

8. In case the Petitioner does not vacate the quarters in the forenoon of 1st November, 1992, the damage rent already assessed would be recovered from the Petitioner *and this order would be inoperative*

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



Central Administrative Tribunal,
Cuttack Bench, Cuttack/16.9.1992.

kg. a. Suf.
16.9.92
VICE CHAIRMAN