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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 469 of 1992

Date of Decision: 24. 9. 1993

G.G. Rao

Applicant (s)

Versus

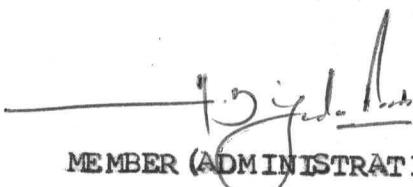
Union of India & Others

Respondent (s)

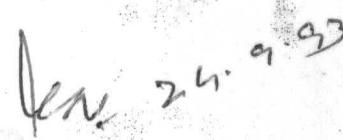
(FOR INSTRUCTIONS)

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)

24 SEP 93


VICE-CHAIRMAN

24. 9. 93

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Respondent(s)

For the applicant:

M/s. Devanand Misra
Deepak Misra
A. Deo
B. S. Tripathy,
Advocates

For the respondents:

Mr. Ashok Mohanty
Standing Counsel
(Central Government)

C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order dated 18.6.1992 contained in Annexure-4 assessing penal rent and damage rent on the petitioner Shri G.G.Rao.

2.  Shortly stated the case of the petitioner is

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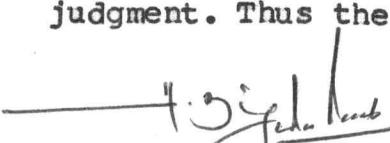
that while he was serving as Leave Reserve Switchman at Baruva Railway Station, he was allotted with a Railway Quarters bearing No.T-4/5 in the Baruva Railway Station. The petitioner was transferred to Summadevi Railway Station and he joined the said post on 5.1.1988. The petitioner was not provided with a Government quarters at Summadevi Railway Station as there was no quarters available for human dwelling. The children of the petitioner were ^{studying} ~~studied~~ at Baruva. The petitioner made a representation contained in Annexure-1 seeking permission from the competent authority to allow the family of the petitioner to continue occupation of the quarters at Baruva. The petitioner was again transferred from Summadevi to Mandasa Railway Station on 3.7.1990 and immediately thereafter, the petitioner vacated the quarters at Baruva with effect from 20.7.1990. Suddenly, penal rent and damage rent was assessed over the petitioner, and thereafter, the petitioner made a representation on 5.4.1991 which was rejected by the competent authority vide Annexure-4 dated 18.6.1992 and is sought to be quashed.

3. In their counter the opposite parties admit that no quarters could be allotted to the petitioner in its Summadevi Railway Station due to/non availability; and it is further maintained that since the quarters at Baruva was occupied unauthorisedly by the petitioner, rightly, penal rent and damage rent was charged over him, and therefore, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Mishra, learned

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counsel for the petitioner and Mr. Ashok Mohanty, learned Standing Counsel on the merits of the case. Facts mentioned above are practically admitted. The only question that needs to be considered as to whether a sympathetic view should be taken over a poorly paid employee of the Railway Administration. Admittedly there was no quarters available at Summadevi Railway Station. Due to the family difficulties faced by the petitioner, he had occupied the quarters at Baruva. Forced under the circumstances, the petitioner could not vacate the quarters in question. Therefore, the penal rent and the damage rent assessed over the petitioner contained in Annexure-4 is hereby quashed as he has already vacated the quarters at Baruva. The petitioner would pay a normal house rent. The same may be calculated and money, if already recovered from the petitioner should be paid back to him after deducting the normal house rent payable by the petitioner. The payment should be effected within 60 days from the date of receipt of a copy of this judgment. Thus the application stands allowed. No costs.


MEMBER (ADMINISTRATIVE)

24 SEP 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 24.9.1993/ B.K. Sahoo


24.9.93
VICE-CHAIRMAN