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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 498 of 1993

Date of decision: September 15, 1993

Bijay Kumar Das

....

Applicant

Versus

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

15 SEP 93

K.P. Acharya 15/9/93
(K. P. ACHARYA)
VICE-CHAIRMAN

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For the Applicant	...	M/s. P.K. Mohanty, J.K. Pradhan, Advocates.
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For the Respondents	...	Mr. Ashok Misra, Senior Standing Counsel (Central).
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C O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE - CHAIRMAN
AND
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADM.)

J U D G M E N T

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 contained in Annexures 5, 7 and 8 as illegal and certain consequential relief has also been claimed.

2. Shortly stated the case of the petitioner is that he is a permanent Mazdoor working under the Telecom Microwave Organisation in the State of Orissa and after serving at Paradeep for sometime he has been transferred to Cuttack. The Petitioner has been allotted a Government quarters at Paradeep in the category of Type II. The

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Petitioner occupied the said quarters but ~~for~~^{by} sometime later vide Annexure 3 dated 14/16th January, 1992, the competent authority directed the petitioner to vacate the type II quarters as it was not within his entitlement and it was further directed that the petitioner should occupy the Type I-B quarters details of which has been mentioned in Annexure 3. The Petitioner did not carry out this order and vide Annexure 4 dated 25th January, 1992, the petitioner made a representation for recalling of the said order. Vide Annexure 5, dated 24th March, 1992, the representation of the petitioner was rejected and the competent authority assessed penal rent over the petitioner which came to be Rs. 1750/- per month. Vide Annexure 6 dated 26th June, 1992, the Petitioner made a representation to the Chief General Manager, Telecommunication and a reply there to vide Annexure 7 dated 24th/27th June, 1992, the representation of the petitioner was rejected and it was observed therein that if the official has not yet vacated the quarters, penal rent @ 1750/- per month may be recovered from the official and disciplinary action may be initiated against the official as per the departmental rules. Further more if the home-taking pay of the official is less than the amount to be recovered per month, then his full pay may be recovered. Being aggrieved ^{by} all these orders, the petitioner has filed this application with the aforesaid prayer.

3. Though this case came up for admission today we did not think it worthwhile to keep this matter unnecessarily pending and therefore, with the consent given by learned counsel for both sides, we have heard this case on merit and we propose to finally dispose of the case.

4. After hearing Mr. P.K. Mohanty learned counsel appearing for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central), we find from the records that the petitioner was making representation from 16.1.1992 and his representation to the Chief General Manager was finally disposed of on 24th/27th June, 1992 contained in Annexure 7. The copy of the order of the Chief General Manager, contained in Annexure 7, was communicated to the petitioner vide Annexure 8 on 3rd July, 1992.

5. Considering the case from all aspects, we are of opinion that the petitioner was pursuing his case bona fide and with good faith hoping that his request would be allowed. But unfortunately for the petitioner, the Chief General Manager, Telecommunication rejected his representation. In view of the fact that he was pursuing his case with bona fide and good faith from 16.1.1992 till 3rd July, 1992, we would direct that a ~~normal~~ ^{penal} rent of Rs. 35/- per month be paid by the petitioner which is the normal rent and from 4th July, 1992 till the petitioner vacates the quarters in question, the petitioner would be liable to pay

double the standard rent i.e. Rs. 70/- per month.

The Petitioner is directed to vacate the quarters in question by the forenoon of September 30, 1993 failing which this order shall become ineffective and the petitioner will have to pay the penal rent as ordered by the Chief General Manager, Telecommunication.

6. Mr. Mohanty learned counsel appearing for the Petitioner submitted before us that the Petitioner being a very poor man, it is not possible on his part to repay the small loans incurred by him at Paradeep for maintenance of his family and such as purchase of grocery etc. Mr. Mohanty submitted that since the entire pay for each month has been recovered from the petitioner, it is not possible on his part to clear up the loans and he is being physically obstructed to walk out along with his family from Paradeep by certain anti-social ailments. We feel that there may be some substance in the submission made by the learned counsel for the petitioner. Therefore, we would direct that the pay for the month of August, 1993 which the petitioner would have been ordinarily entitled to be paid to the petitioner by 25th September, 1993 so that he will be able to clear up his loans and vacate the quarters in question by 30th September, 1993. Keeping in view the directions contained above, calculation be made regarding the amount to which the petitioner is entitled for refund out of the amount already recovered

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