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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.558 OF 1994
Cuttack, this the 17th day of February, 1999

Babaji Charan Swain Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
17-2-99

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Cuttack, this the 17th day of February, 1999

CORAM:**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN****AND****HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)**

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Babaji Charan Swain, aged about 50 years, son of late
 Parsuram Swain, of village Khandol, PO-Sukleswar,
 P.S-Mahanga, Dist.Cuttack, at present working as Train
 Lighting Fitter Grade-II, Electrical Department,
 S.E.Railway, Talcher, Angul..... Applicant

Advocate for applicant - Mr.B.B.Patnaik

Vrs.

1. Union of India, represented by Chairman,
 Railway Bhawan, New Delhi.

2. The Divisional Railway Manager,
 South Eastern Railway, Khurda Road Division,
 Khurda, Orissa.

3. Senior Divisional Engineer-cum-Divisional Quarter
 Committee Chairman,
 Khurda Division, PO-Jatni, District-Khurda.

4. Divisional Personnel Officer, Khurda Road Division,
 South Eastern Railway, PO-Jatni, District-Khurda.

5. Senior Divisional Electrical Engineer,
 South Eastern Railway, Khurda Road, PO-Jatni,
 District-Khurda.

6. Assistant Divisional Medical Officer-cum-Quarter
 Committee Chairman, South Eastern Railway, Talcher
 Branch, Talcher, Dist. Angul.

7. Inspector of Works (IOW), South Eastern Railway,
 At-Talcher Railway Station, p0/Dist.Angul.

..Respondents

Advocate for respondents - Mr.D.N.Misra.S.C.(Railways)

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SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner, who is working as Train Lighting Fitter Grade II, S.E.Railway, has prayed for quashing the order dated 13.9.1994 (Annexure-6) cancelling the allotment of quarter to him. There is also a prayer for a direction to the respondents not to ask the applicant to vacate the quarter or to recover damage rent from him. The last prayer is for a direction to respondent no.6 to restore water connection to the quarter immediately and deduct rent from the applicant as before.

2. Facts of this case, according to the applicant, are that he is a permanent employee of S.E.Railway as Train Lighting Fitter, Grade-II, D.C.Section under Senior Divisional Electrical Engineer, S.E.Railway, Khurda Road (respondent no.5). The applicant is working as Assistant Secretary, S.E.Railway Men's Union, Talcher Branch. Because of his union activity, the departmental authorities are annoyed with him. The applicant was allotted a quarter for residential accommodation on 7.8.1988 by Quarter Allotment Committee, Talcher Branch (respondent no.6). He has been occupying the quarter with his family members. The order of allotment of quarter to the applicant is at Annexure-2. It is stated that because of his union activity respondent no.6 in order to harass the applicant disconnected the water supply to the quarter without giving him any prior notice. He submitted a representation on 7.9.1994 (Annexure-3) to Senior Divisional Electrical Engineer (respondent no.4) and also took up the matter through the Union vide Annexure-4. He

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5 also sent reminders. It is further stated that respondent no.6 in his capacity of Chairman, Quarter Committee, Talcher, cancelled the allotment of quarter to him in the impugned order dated 13.9.1994 (Annexure-6) without giving him any prior notice and without any reason and also instructed the Senior Divisional Personnel Officer to recover damage rent from the applicant till he vacates the said quarter. Against the background of the above facts, the applicant has come up with the prayers referred to earlier.

3. Respondents in their counter have stated that originally the applicant was appointed as a Sub Khalasi on 18.11.1964 under Divisional Electrical Engineer, Khurda Road. Subsequently, he was transferred from Puri to Talcher as Train Lighting Fitter Grade II and joined at Talcher on 9.2.1988. He was allotted with the quarter No.ELC/49/A Type II. The applicant occupied the quarter on 15.4.1988 vide Annexure-R/I. On 16.8.1994 Inspector of R.P.F., Special Intelligence Branch, Talcher, submitted a report (Annexure-R/II) stating that the applicant has sublet the said quarter to an outsider, namely, S.K.Kader, a big wholesale fish merchant. His business-cum-establishment is increasing day by day; heavy trucks loaded with fish and huge number of fish sellers are causing nuisance and inconvenience to the Railway employees and public. The said S.K.Kader has also installed a P&T in that quarter. Telephone. It is stated that according to Establishment Serial No.102/80 allotment of quarter can be cancelled without issuing any notice to show cause if the quarter has been sublet to an outsider. The applicant has not taken any permission to sublet his quarter to an outsider. Divisional Engineer(Central), Khurda Road, after coming to know of the

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report dated 16.8.1994 issued letters to Senior Divisional Electrical Engineer, S.E.Railway, Khurda Road, with a copy to the Chairman, Divisional Quarter Committee stating the above fact of subletting of quarter by the applicant. It was decided to initiate disciplinary proceedings against the applicant and thereafter in the letter dated 13.9.1994 allotment of quarter in favour of the applicant was cancelled and recovery of damage rent was ordered till vacation. The applicant challenging the said order approached the Tribunal in this O.A. and the Tribunal in their order dated 21.9.1994 stayed recovery of penal rent. The Tribunal also observed that it would be desirable if the matter regarding restoration of water supply is looked into. The respondents have stated that in deference to the order of the Tribunal regarding recovery of penal rent and restoration of water supply, no action has been taken against the applicant for recovery of penal rent or with regard to disconnection of water supply. The respondents have stated that it is respondent no.6 who had allotted the quarter to the applicant, being the Chairman of the Station Quarter Committee, and as the quarter has been sublet to a big wholesale fish merchant and thereby much inconvenience has been caused to the Railway employees and public, the allotment of quarter has been cancelled. The respondents have denied the averment of the applicant that action has been taken for cancellation of the allotment of the quarter because of his union activity. They have stated that this has been done because the applicant has sublet the quarter. *S. J. M.* They have also denied that the departmental authorities have acted in an arbitrary or mala fide way. On the above grounds, they have opposed the prayers of the applicant.

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4. The applicant in his rejoinder has denied that he has sublet the quarter to S.K.Kader. He has stated that he has been living in that quarter with his family members all through and the report that he has sublet the quarter to S.K.Kader is false. He has also denied the submission that S.K.Kader has installed a public telephone in that quarter. It is stated that no opportunity has been given to him to show cause regarding allegation of subletting of quarter. He has also stated that Telecom Department should be directed by the Tribunal to ascertain the facts about installation of the public telephone by S.K.Kader. On the above grounds, the applicant has reiterated his prayers in the O.A.

5. We have heard Shri B.B.Patnaik, the learned counsel for the applicant and Shri D.N.Misra, the learned Standing Counsel appearing for the respondents, and have also perused the records and the written submission filed by the learned counsel for the petitioner.

6. The admitted fact is that the concerned quarter was lawfully allotted to the applicant and he occupied the quarter on 15.4.1988 as per his own submission. According to the respondents from the report dated 16.8.1994 of Inspector of R.P.F., Special Intelligence Branch, Talcher, it was seen that the applicant has sublet the quarter to an outsider, namely, S.K.Kader, a big wholesale fish merchant. The applicant has denied the fact of subletting. Thus, the sole point for consideration is if the applicant has actually sublet the quarter to S.K.Kader, a big wholesale fish merchant. The Inspector of R.P.F., Special Intelligence Branch, has mentioned in his report that large number of trucks are assembling near the quarter along with huge number of fish merchants and this is causing nuisance to the people in the locality including other Railway employees. He has also

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reported that because of this, Railway employees and some outsiders led by one Akka Ratho of Bantrat village are going to represent to higher authorities and they may represent or demonstrate before higher authorities when they pay visit to Talcher. Besides a bland denial that he has sublet the quarter, the applicant has not placed any document in support of his contention that he has not sublet the quarter. If it is a fact that he has all along been residing in the quarter with his family members and he has never let out the quarter to S.K.Kader, then it would have been possible for him to file affidavits from the neighbours stating that he has been all along in peaceful occupation of the quarter and the quarter has never been sublet by him to S.K.Kader. In view of this, the report of Inspector of R.P.F., Special Intelligence Branch, cannot simply be brushed aside by a bland denial of the applicant. We, therefore, hold that the applicant did actually sublet the quarter to S.K.Kader, a wholesale fish merchant. If that be not so, there is no reason why the Inspector of R.P.F., Special Intelligence Branch, would concoct a story and submit a report against the applicant. His assertion that this has been done only because of his union activity is also a mere assertion without any supporting evidence. We, therefore, find nothing wrong in the departmental authorities in cancelling the allotment of quarter. The respondents have pointed out that according to Establishment Serial No.102/80 once the quarter has been sublet by a Railway employee, the allotment can be cancelled even without issuing any notice to show cause. In consideration of all the above, we hold that the applicant has not been able to make out a case for any of the reliefs claimed by him.

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7. In the result, therefore, the Original Application fails and is dismissed. The stay order granted in order dated 21.9.1994 stands vacated. No order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)

17.2.99
VICE-CHAIRMAN

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