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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 664 of 1994

Cuttack this the 27th day of July, 1995

Sarbeswar Harichandan ... 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 No. the Central Administrative Tribunals or not ?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

27 JUL 95

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

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C O R A M:

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

Sarbeswar Harichandan,
S/o. Late Padma Charan Harichandan
Head Goods Clerk/Goods Supervisor
Jagannath Colliery Siding, Talcher
Post Office: Balanda, Dist: Angul

... Applicant

By the Advocate: M/s. G. K. Misra,
G. Misra,
K. Swain
D. Das

Versus

1. Union of India, represented
through General Manager,
S.E. Railway, Gardenreach
Calcutta
2. Divisional Railway Manager
South Eastern Railway
Khurda Road
3. Senior Divisional Commercial Supdt.
(Superintendent), S.E. Railway,
Khurda Road

... Respondents

By the Advocate: Mr. D. N. Mishra
Standing Counsel (Railway)
for Respondent 3

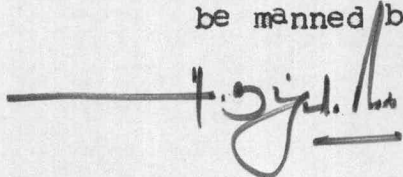
O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant, Shri Sarbeswar Harichandan, while working as Head Goods Clerk at Meramundali Railway Station in Khurda Division of the South Eastern Railway, was transferred on 27th June, 1991, to Jagannath Colliery Weigh Bridge Siding, Talcher. Both stations are separated by

about 50 kms. His actual place of work in the transferred post was at Balanda where a weigh bridge had been newly installed at the request of the colliery authorities. He joined the post on 12th August, and applied the very next day to the Project Officer of the Colliery for allotment of a suitable accommodation to him at Balanda.

2. On 26th August, he informed his superior officer that the Project authorities had not given him any residential accommodation but had promised to provide him one when the same was available. On 9th September, the Divisional Commercial Superintendent Khurda Road reminded the Project authorities (G.M. Jagannath Area) about the allotment of a quarter to the complainant. On 28th December, the applicant again wrote to the Divisional Commercial Superintendent to persuade the Project authorities to provide a quarter to him at Balanda, since he was experiencing much difficulty in commuting between Meramundali, his previous place of work, to Jagannath Colliery, every day.

3. On 5th March, 1992, a meeting was held between the representatives of the S.E. Railway and those of Collieries where it was decided that the applicant's working-hours shall be from 0600 to 1400 and 1400 to 2200 hrs in two shifts, to be manned by the applicant (Head Goods Clerk)



and a junior Goods Clerk. The is found in the minutes of the meeting recorded.

" It was decided that HGC-Shri Harichandan who is in-charge of the Siding from the Railway Side will be provided with a suitable quarter from SECL within next 2 to 3 months at a nearby location so that he is available always and exercise proper control over the working office Staff."

4. During the same month, it was decided by the Railway Authorities to impose penal rent on the applicant from 12.8.1991, (the date of his joining in the Weigh Bridge Siding) in respect of the quarters at his previous station which he had not vacated. The recovery continued upto 12.8.1992, the date on which he occupied the quarter (No.IC/48) allotted to him by the Colliery authorities. The applicant, it may be added, had requested the Divisional Commercial Superintendent, Khurda Road, to sanction the actual bus-fares incurred by him on his trips to Meramundali to Balanda and back on all working days. He renewed the request on 20th October, 1993, explaining the difficulty he was encountering in having to travel between his old and new stations.

5. In the present application, the petitioner prays for a direction to be issued to the Respondents to -

- a) refund the penal rent for one year recovered from his pay in respect of the departmental quarters occupied by him at Meramundali for the period from 12th August, 1991 ;

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- b) to sanction T.A. & D.A. to him to offset the expense incurred by him to travel between Meramundali & Balanda station during the same period.

6. The Respondents in their counter-affidavit submit that the post of Head Goods Clerk at Meramundali became surplus and the applicant had had to be shifted to a newly-created post at Jagannath Colliery; that he had been duly warned to vacate the quarters under his occupation at Meramundali before moving out to Balanda; that because of his continued unauthorised occupation of the quarter without any permission from the authorities it was decided to levy a penal rent of Rs.15/- per sq.ft. of accommodation; that no penal rent was actually recovered from him but only the usual 10% (of the basic pay) continued to be recovered from him;

They further state that he was required to vacate the quarter at Meramundali on his transfer to Balanda and that a quarter was duly provided to him at Balanda no sooner than it became available. They point out that he could have hired a suitable accommodation in his new place of posting, i.e., Balanda, and claimed the admissible H.R.A. He not only failed to do this, but also over-stayed in the quarter allotted to him while he was posted at Meramundali, despite instructions to the contrary.

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The respondents state that the provision of residential quarter is not a matter of right and he cannot, as such, claim a right to allotment of quarters in his new place. They point out that the railways themselves did not have any quarter for allotment to the applicant at Balanda, and all that they could do was to request the Colliery Administration to spare one of their own.

7. The applicant has filed a rejoinder which does not, however, contain any new point or throw any fresh light on the case. He has appended the details of his claim for T.A. and D.A. from 12.8.1991 to 11.8.1992, aggregating Rs.25,502/-.

8. A new weigh-bridge was set up at Jagannath Colliery solely for the convenience of the coal-mine authorities to facilitate the movement of coal from pit-heads. That being the case, the least that was expected of the beneficiary-administration was that they would duly provide the minimum residential accommodation to essential staff of the railway. Ideally, this should have been insisted upon by the railway administration even before establishing a new facility at Balanda. Instead, they merely seem to have made spasmodic and routine requests till an year after the new outlet was set up and commenced functioning. At no stage during this period did the railways appear to take this matter up with the collieries administration with a noticeable measure of urgency or seriousness. The inescapable minimum

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need of quarters for their own essential staff should have been appreciated before-hand, specially when the working hours of such staff were fixed from as early as 0.6.00 hours to as late as 22.00 hours.

That this was a split-duty to be performed by ^{officials} two ~~merely~~ highlights the fact that it was two and not one of their staff who needed a residence.

8. The respondents say that the applicant should have hired private accommodation and claimed house rent allowance. According to the applicant, no private accommodation is at all available in his place of work since the entire area comprises only the collieries and there is no civilian population or ~~suitable~~ private house for hire in Balanda near the mine area. One does not know the correctness of this statement, except that the same has not been refuted by the respondents.

9. Be that as it may, the applicant should have been allowed by the authorities themselves to retain his previous accommodation on their own initiative when it was known that no quarter had been provided to him by the coal-mine authorities on his posting to Balanda, where they (the railways) had no houses of their own. It is to be noted in this connection that the applicant had been informing them from time to time that he had not been allotted any quarters and had also been requesting his superiors to intercede

T. J. G. S. S.

on his behalf with the colliery authorities in the matter. Under the circumstances, it is to be held that the levy of penal rent on the applicant was uncalled for and unjustified. Furthermore, it is seen that the penal rent was ordered to be recovered from 12.8.1991 which was the very date of his joining the new post at Balanda. Normally, any Government servant in lawful occupation of residential quarters is permitted to retain the quarters for a certain period of time after his relief from that station before the question of penal rent can even arise. It is not understood how the penal rent was ordered to be recovered from the very date on which he joined the new post not long after his relief at Meramundali. Viewed thus from any angle, the levy of penal rent is unjustified in the present case. The prayer of the applicant for the refund of [redacted] rent recovered from him for the period from 12.8.1991 to 12.8.1992 at penal rates in respect of the quarter occupied by him at Meramundali is, therefore, allowed. If any amounts, [redacted] over and above the normal rates, have been recovered from the applicant, the same should be refunded to the applicant within 60 days from the date of receipt of these orders.

10. Turning to the applicant's prayer for grant of T.A./D.A., the claim is not based on any rule or covered by any provision or instruction. T.A. and D.A. are regulated as per the rules in/vogue and cannot be

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claimed at one's whim whatever the other incidental circumstances of the case. It is held that the applicant is not entitled to either T A ^{or} /D A. for his journeys/duty to/at Balanda. This prayer of the applicant is disallowed.

Thus the Original Application is disposed of. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//

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