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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 706 of 1994

Cuttack this the 3rd day of August, 1995

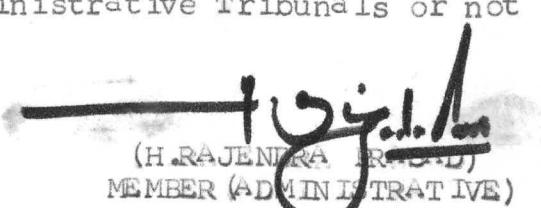
Jadumani Kisan ... Applicant(s)

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.

  
(H. RAJENDRA PRASAD)

MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 706 of 1994

Cuttack this the 3rd day of August, 1995

C O R A M:

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

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Jadumani Kisan, S/o. Madhu Kisan,  
At present working as a Motor Driver,  
A.I.R., Sambalpur

...

Applicant

By the Advocate :

M/s. S. B. Jena  
S. K. Das  
A. K. Guru  
B. B. Acharya  
J. Sengupta

Versus

1. Union of India, represented through it's Director General, Information and Broad Casting, Akashbani Bhawan, Parliament Street, New Delhi-100 001
2. Deputy Director General (ER) All India Radio, Calcutta-700001
3. Station Director, All India Radio, Sambalpur-768001

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Respondents

By the Advocate :

Mr. Akhaya Kr. Mishra,  
Addl. Standing Counsel  
(Central)

O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : Heard Shri J. Sengupta, learned counsel for the applicant and Shri Akhaya Mishra, learned Additional Standing Counsel (Central) for the respondents.

2. The applicant, Shri Jadumani Kisan, Driver, Akashvani, Sambalpur, was in occupation of Quarters No. C/B/2, which was allotted to him on 20.7.1992. While he was so continuing to reside in the said quarter,

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certain quarrels seem to have developed between the members of the applicant's family and those of his neighbour. This led to some altercations and an enquiry. Instead of imposing a suitable penalty, if and as permitted by the rules and circumstances of the case, the respondents chose to cancel the allotment of the quarters vide Director, AIR, Sambalpur's letter No. SEP-9(3)/94-G 4962 dated 1.6.1994. Not merely was the allotment of the quarter cancelled without notice, the petitioner was asked ~~also~~ to move out forthwith without giving him even the minimum reasonable time to shift his residence. Furthermore, this order itself contained a caution that penal rent would be charged from the date of cancellation of the allotment of quarters. This action smacks of highhandedness, to say the least.

3. Be that as it may, the applicant duly vacated the quarter on 31.7.1994, i.e. in less than sixty days from the date of cancellation of the quarters. This can be regarded the minimum reasonable time required by the applicant to locate and hire an alternate private accommodation elsewhere in the town. Nevertheless, the respondents imposed a penal rent @ Rs.40/- per sq.mt. from the very date of cancellation of the quarters. The decision of cancellation of the quarter itself appears to be flawed since that may not have been the only remedy available to the authorities. The same is, however, not of direct concern to the present case.

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4. The question in the present application pertains merely to the imposition of penal rent and the rate thereof. The imposition of penal rent in the present case does not seem to be sanctioned by any rule, nor is it equitable. The learned Additional Standing Counsel produced a circular issued by the All India Radio in the year 1984, which incorporates the Ministry of Urban Development, Director of Estates O.M. No.18111(12)/73-POL III dated 27.8.1987 and 18100/8/89-POL III dated 1.4.1991, laying down the rates of damage rent @ Rs.40/- per sq.mt. in respect of quarters of Type A to D.

Shri Mishra submits that the penal rent levied in the present case was based on the said circular. It is, however, seen that as per para 4(2) which figures just below 4(1) in the said circular, the damage-rent for stations other than Delhi in respect of General pool accommodation had to be got assessed by C.P.W.D. Para 4(4) also stipulated that where there is no general pool accommodation, suitable unit-rates have to be worked out by C.P.W.D. None of these steps have been taken in the present case and rates applicable for general pool accommodation in New Delhi have been invoked and imposed on an official working in Sambalpur. This is evidently incorrect. Moreover, an employee who is required to vacate his quarters owing either to promotion/transfer or retirement or for any other valid reason, has to be allowed a reasonable time as envisaged by rules to vacate the accommodation, whereas the date

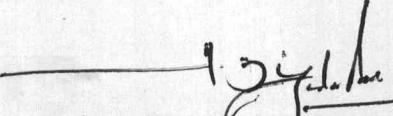
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of the commencement of the impugned penal rent and the cancellation of the quarters in the present case are one and the same. This too cannot be upheld.

5. In the result Annexure-5, i.e. letter No. SBP-9(3)/94-4/5585 dated 29.6.1994 of the Director, A.I.R., Sambalpur is quashed. The respondents shall take action to refund the excess amount imposed on the applicant, over and above the normal rent, for his occupancy of the said quarter from the date of cancellation of its allotment to the date of its vacatation by him, within 60 days of the receipt of copies of these orders.

Thus the application is disposed of.

No costs.

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

03 Aug 95

B.K.Sahoo//