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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.114 OF 1995

Cuttack, this the 22nd day of March, 1996.

Sambhunath Mandal Applicant

Vrs.

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 Central Administrative Tribunal or not? No.

(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)
15 FEB 96.

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 114 OF 1995

Cuttack, this the 22nd day of March, 1996

CORAM:

THE HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

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Sambhunath Mandal, aged 56 years,
son of late Gokul Mandal,
Assistant Technical Officer (Gazetted),
Aviation Research Centre,
Charbatia, Dist.Cuttack (Orissa)

Applicant

By the Advocates

M/s C.A.Rao, S.K.Purohit,
S.K.Bhera & P.K.Sahoo.

-versus-

1) Union of India,
represented by its Secretary,
Department of Cabinet Affairs,
Cabinet Secretariat, New Delhi.

2) Director,
Aviation Research Centre,
East Block-V, R.K.Puram,
New Delhi-110 066.

3) Deputy Director,
Aviation Research Centre,
Charbatia, Dist.Cuttack-754 028 ... Respondents

By the Advocate

Mr.Akhaya Ku.Misra,
Addl.C.G.Standing Counsel

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O R D E R

H.RAJENDRA PRASAD, MEMBER(A.)

Shri Sambhunath Mandal, Assistant Technical

Officer in the Aviation Research Centre, was allotted residential accommodation on 27.5.1989. On 1.6.1989, he made a representation to the authorities that he preferred a ground floor accommodation owing to certain personal difficulties like the ill-health of his wife, etc. By then he had already accepted and occupied the accommodation allotted to him. The request was presumably for a change of accommodation whenever a ground floor accommodation became available. On 5th May, 1993, it was reported to the authorities that the applicant had unauthorisedly sublet the said accommodation to one of his colleagues, and that he was himself staying outside the campus in his own house, which he had constructed in the meanwhile. On 11th May, 1993, he was directed to show cause why the accommodation allotted to him should not be cancelled. Only on receiving this notice, the applicant applied for permission to stay outside the campus, reportedly on the ground that the quarters earlier allotted to and occupied by him were in a dilapidated condition and that large chunks of cement, etc., were regularly falling from the roof on the occupants below. While this was so, it is also surprising, at the same time, that, according to his own statement, the applicant asked his son to stay on in the 'dilapidated' quarters while, he along with the rest of the family, moved out. Not merely did he leave his son alone in the so-called dangerous house, the applicant also permitted a colleague of his to occupy the said accommodation, again reportedly because the latter was 'on the road' without a proper accommodation.

2. The statements of the applicant are too blatantly unconvincing to be acceptable. The plea that the accommodation allotted to him was in a dilapidated condition and that chunks of plaster were descending from the roof is too absurd

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to be believed.

3. Be that as it may, the applicant claims to have surrendered his quarters on 1.7.1993. He has not been paid House Rent Allowance thereafter. The respondents vide Annexure-5 have ruled that the official is not entitled to House Rent Allowance until the date of his superannuation.

4. ^{also} The respondents have ruled that, as per the Estate Rules of the Government of India, the applicant cannot be considered for allotment of Government accommodation for a period of one year from the date of surrendering his accommodation. This is in order. The A.R.C. Headquarters vide their letter No. ARC/WKS/ 638/94-8010 dated 9.12.1994 ruled that the applicant was not entitled to House Rent Allowance since he vacated the government accommodation, of his own accord, during the pendency of the disciplinary action initiated against him on the ground of subletting the same without permission. This decision was again repeated by the Assistant Director, A.R.C. Charbatia, vide Memo No. IX/PF-528 dated 9.1.1995.

5. There is a reasonable ground to believe that the applicant did not surrender the accommodation allotted to him as per proper procedure. His contention that the accommodation allotted to him was not cancelled is also refuted by the authorities as the cancellation was ordered on 14.6.1993. It is also entirely possible that the charge of subletting the accommodation is based on reasonable suspicions. It is, however, not known as to what is the outcome of the disciplinary action that was proposed to be initiated, or actually initiated, against him. There is no indication of this fact in the counter filed by the respondents.

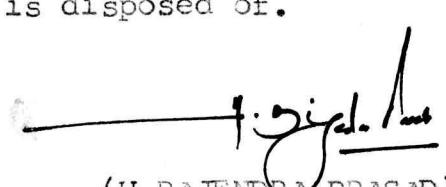
6. Under the circumstances, it is to be held that

while the authorities are free to take any action against the applicant, if it is established that he had indeed sublet the accommodation unauthorisedly, it would be incorrect to deny him the House Rent Allowance admissible to him if he was not in physical occupation of the government quarters. If it is true that he did surrender and make over the vacant possession of the quarters allotted to him on a certain date, then the admissible House Rent Allowance has to be paid to him, and any misconduct or violation of any rule in connection with the allotment/occupancy/surrender/subletting of quarters is to be dealt with, separately, by such action as the authorities may deem necessary.

7. The applicant has needlessly brought in some contentions concerning caste, etc. These are unconnected to facts of the case and wholly uncalled for. No cognizance has been taken of such patently irrelevant arguments.

8. Action may be taken to sanction and release such House Rent Allowance, as he may in the normal course be entitled to, from the date he actually made over the vacant possession of the quarters. This may be done within 90 (ninety) days from the date of receipt of copy of this order.

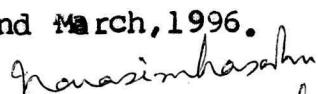
9. Thus the O.A. is disposed of.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

15 FEB 96

Nayak, P.S.

As authorised by Hon'ble Vice-Chairman on
19.3.1996, order is pronounced in open court on
this day of 22nd March, 1996.


22nd March 96
(N. SAHU)
MEMBER (ADMINISTRATIVE)