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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 638 OF 1995
Cuttack, this the 31st day of July, 1997

Rama Singh and others Applicants.

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 .

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

(11)

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
Cuttack Bench, Cuttack.**

ORIGINAL APPLICATION NO. 638 OF 1995
Cuttack, this the ~~31st~~ day of July, 1997

CORAM:

HON'BLE SRI SOMNATH SOM, VICE-CHAIRMAN

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1. Rama Singh
2. Dasharathi Singh
3. Lawa Singh alias Murmi
4. Kala Singh
5. Rainda Singh
6. Dhadia Singh
7. Tipu Singh
8. Rabi Singh
9. Smt.Surjamani Singh alias Dei
10. Sri Bisa Khilar alias rout
11. Gangadhar Kunhar
12. Thumpu Singh
13. Surendra Patra
14. Smt.Parbati Bindhani
15. Srinath Parida
16. Smt.Namasi Singh
17. Purna Chandra Sahu
18. Banshidhar Patra
19. Panchu Sahu
20. Biranchi Beja
21. Pravakar Sahu
22. Sankar Sahu
23. Smt.Gurubari Singh
24. Shyam Sahu
25. Bauribandhu Barik
26. Sundara Marandi alias Majhi
27. Budhimanta Sahu
28. Fakira Sahu
29. Manendra Singh

All are working as S.S.Gr. under Central Rice Research Institute, Cuttack-6, Dist.CuttackApplicants.

Vrs.

1. Union of India, through Secretary-cum-Director-General, I.C.A.R., Krishi Bhavan, New Delhil.
2. Director, Central Rice Research Institute, Cuttack-6, Dist.Cuttack.
3. Senior Administrative Officer, Central Rice Research Institute, Cuttack-6, Dist.Cuttack.....Respondents.

Somnath Som
31.7.97

Advocates for applicants -

M/s. S.B.Jena &
S.K.Mohapatra.

Advocate for respondents -

Mr.Ashok Misra.

O R D E R

Somnath Som, Vice-Chairman

The twenty-nine petitioners in this case are Class IV staff under Director, Central Rice Research Institute (CRRI, for short). They originally worked as casual labourers there. Subsequently, their services were regularised and they were appointed as S.S.Grade which is in Class IV. As casual labourers in CRRI, their job was to look after the paddy crop. Because of small amount of emolument, it was not possible for them to live outside the premises of CRRI. It is the case of the petitioners that there were lot of open land and the CRRI authorities permitted them to raise small hutments to dwell there for the purpose of watching research activities over the paddy field. After regularisation, they continued to stay there inside the CRRI campus. According to them, they are staying in the hutments raised by them on the land of CRRI for more than twenty-five years and in respect of some of the employees, the hutments were there since the time of their fathers. On 11.8.1995, respondent no.2 issued them a notice, which is at

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Annexure-2. In this notice, it was mentioned that according to the service rules applicable to Class IV and Class III staff, the employees are not entitled to reside inside the premises except in quarters which are allotted to them and therefore, 56 persons whose names were there in the notice were directed to vacate their dwellings in the Labour Colony inside CRRI campus within thirty days of receipt of the notice. On the same day, i.e. 11.8.1995, another notice was issued to the same 56 persons requiring them to clarify whether they are residing in quarters allotted to them by CRRI or sharing accommodation with another person to whom a quarter has been allotted. They were asked to give their clarification within thirty days, failing which it was mentioned that it would be presumed that they are not entitled to House Rent Allowance (HRA, for short) and HRA paid to them will be recovered. In response to this second notice, which is at Annexure-3, the applicants sent replies. The reply given by applicant no.17 has been enclosed as Annexure-4. In this letter, applicant no.17 has stated that he has neither been allotted residential quarters at the Institute nor is he sharing official accommodation allotted to another employee of the Institute. It has been further submitted in the reply that he is entitled to HRA as per ⁱⁿ rules/ so far as he is not provided with residential

JOHNATHAN JIM
31.7.92

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accommodation by the Institute. After consideration of the representations of the applicants, in the impugned order dated 13.10.1995 HRA to 43 out of 56 persons in the earlier notice was ordered to be stopped. The present 29 petitioners are amongst those 43. In the application, it has been submitted by the petitioners that according to the Rules, HRA is to be granted to such Government servants who are not allotted Government accommodation and in this case, the petitioners have not been allotted Government accommodation and therefore, they are entitled to HRA. In this case, the petitioners have raised hutments admittedly on CRRRI land but at their own costs and this cannot be held as Government accommodation and they should continue to get HRA. It is further submitted that even slum-dwellers' rights are protected under orders of the Apex Court and here the respondents are trying to oust the petitioners from their own premises where they have constructed small hutments at their own costs.

Sanjay J. J.
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2. Respondents in their counter have pointed out that many years ago there was a labour strike at CRRRI and at that time, labourers from other parts of the State were brought for agricultural works and as they came from outside, they were asked to stay in the campus at two places and over the time, the colony continued and more and more people joined with or without permission of the CRRRI

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authorities, but no attempts were made to evict them. The respondents have stated that the petitioners are not required to work beyond their duty hours to watch the crop, which, according to the petitioners, necessitates their staying within the CRRI premises. It is also submitted that over the period of time, the petitioners by staying within the campus created problems of grazing by animals kept by them and using the fields for other purposes and also theft of the crop. The respondents' case is that when the petitioners were casual labourers, they were allowed to stay inside the premises by raising hutments. But once they became regular employees of the CRRI, they are bound by the service rules and they are not entitled to stay inside the CRRI premises. It is also submitted by the respondents that even though these petitioners have been staying, according to their own admission, inside the CRRI premises, they are taking HRA on the basis of their applications stating their and residence in nearby villages/in Cuttack town. As false certificate has been given by these petitioners, they were asked to vacate the colony and HRA was stopped as first measure pending disciplinary action to be taken against them. Respondents have stated that by staying inside the Institute premises, the applicants are creating unhygienic condition, problems for legitimate workers of the Institute

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and they are also taking HRA by giving false certificates showing their residence in nearby villages.

3.The petitioners have filed a rejoinder in which they have stated that there is no rule prohibiting watching over the crop beyond duty hours and under the direction of the Research Officers, they are watching over the crop raised beyond the duty hours. They have further stated that as no Government accommodation has been provided to them, they are entitled to get HRA.

4.I have heard the learned lawyer for the petitioners and Sri Ashok Misra, learned Senior Panel Counsel appearing on behalf of the respondents, and have also looked into the records. The learned lawyer for the petitioners has submitted, besides what has been stated earlier in support of the application, that most of these petitioners are tribals. They have come from distant places to CRRI and therefore, it is not possible for them to stay at the nearby villages with meagre HRA which they are getting on the basis of their pay. There was earlier some controversy as to whether hutments had been raised by the CRRI authorities or by the petitioners themselves. But the respondents in their counter have admitted that originally the casual labourers with the permission of the CRRI authorities raised hutments on the land of the Institute.

*Submitted
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Therefore, this aspect is no longer a disputed point. In the above context, the prayer of the petitioners for quashing Annexure-1 stopping the HRA has to be considered.

5. The first point to note is that by virtue of the order at Annexure-1, HRA has been stopped in respect of 43 S.S. Grade employees and only 29 out of them have come up in this application challenging the order stopping HRA. The second aspect of the matter is that it is the admitted case of both the sides that these petitioners are staying within the CRRI premises in the hutments raised by them on CRRI land. But, according to the respondents, they have given false declaration that they are staying in Cuttack town or in adjoining villages. As some of them have claimed HRA on the basis of such declaration, the respondents acted perfectly within their rights to stop HRA to them. For getting HRA, an employee has to reside within 8 kilometres from his place of posting. These are the conditions which must be fulfilled before HRA can be claimed. The petitioners' plea that they are entitled to HRA only because they have not been provided with Government accommodation cannot be accepted. Therefore, the respondents would be perfectly within their rights to stop HRA in respect of such of the petitioners who have given false declaration stating that they are living in Cuttack town or in adjoining villages while actually they are living inside the Institute's premises as mentioned above.

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6. The petitioners have stated that in some cases the hutments have been raised by their fathers. The respondents' case is that with the passage of time outsiders have started staying in these hutments inside the campus of CRRRI. In case the father has raised the hutment, it is not unreasonable to presume that after his death or retirement, all his sons are staying in the hutment even though all of them might not be working under the CRRRI. Under such a situation, with the passage of time, the labour colony or all these hutments would keep on expanding as their number increases. But it is for the CRRRI authorities to take steps to get the premises cleared off the unauthorised occupiers and it is not necessary for me to consider this aspect further.

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Jomman Jm

7. In the instant case, the impugned order has been passed after giving notice to the petitioners and after considering their replies. The fact that these hutments are on the land of the CRRRI and the petitioners have no right to occupy the same is also a point to be taken into consideration. Learned lawyer for the petitioners submitted in course of arguments that for vacating these premises, the petitioners should be given compensation. This is only the beginning of a plea laying a claim on the land itself and the CRRRI authorities will be well advised to take steps to get the premises cleared off

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the unauthorised occupiers. Lastly, these 29 petitioners are not the only Class IV employees of CRR I. There are other Class IV employees and with the HRA they are getting however meagre it may be, they are staying outside the CRR I premises. It is not the case of the petitioners that all the Class IV employees are staying in the hutments inside the CRR I premises. Therefore, there is no reason why these petitioners also cannot stay outside the CRR I premises with the HRA they would be entitled to get and since they are currently staying inside the premises, they cannot claim HRA.

8. In the result, therefore, I find no merit in this application and the same is rejected. The stay order issued on 30.10.1995 is vacated. There shall be no order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
31.7.97

AN/PS