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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 390 OF 1996.
Cuttack, this the 6th day of March, 2002.

DEV SINGH.

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APPLICANT.

VRS.

UNION OF INDIA & 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? Yes.

Manoranjan Mohanty
6/3/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 390 OF 1996.
Cuttack, this the 6th day of March, 2002.

C O R A M:-

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL).

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DEV SINGH,
Son of Mangal Singh,
P.L. Fitter (Under LOW/BLCR),
S.E. Railway, Sambalpur.

....

APPLICANT.

By legal practitioner : Basudev Pujari, Umakanta Mishra,
R.K. Rana, Advocates.

- Vrs. --

1. Union of India represented by the Secretary, Railway Board, Rail Bhavan, New Delhi-110 001.
2. General Manager, South Eastern Railway, Gaffden Reach, Calcutta.
3. Divisional Manager, Sambalpur Division, South Eastern Railway, Sambalpur.
4. Assistant Engineer, South Eastern Railway, Bolangir.
5. Assistant Engineer, South Eastern Railway, Sambalpur.

.... RESPONDENTS.

By legal practitioner : Mr. R.C. Rath,
Addl. Standing Counsel (Rlys.).

ORDER

(ORAL)

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :-

Applicant while continuing as a Pipeline Fitter Helper, in South Eastern Railway, faced transfer from Bolangir to Sambalpur vide order dated 28th September, 1992 and he joined the new destination. While continuing at Bolangir, he was provided with a Railway quarters but at the new destination at Sambalpur he was not provided with any quarters. Since he was continuing to occupy a Railway quarters at Bolangir and not provided with any quarters at Sambalpur, he was not being paid house rent.

allowance at Sambalpur. While continuing to serve at Sambalpur and retaining the quarters at Bolangir, he was advised to vacate the quarters vide a communication dated 30.12.1994 (Annexure-2). Immediately, thereafter, the applicant submitted a representation under Annexure-3 dated 9.1.1995 to retain the quarters further. On the very next day i.e. on 10.1.95, he was asked to vacate the quarters, apparently, without ~~him &~~ consider the request made in the representation under Annexure-3 dated 9.1.1995. This order dated 10.1.1995 to vacate the quarters is at Annexure-4. In the said premises, the Applicant vacated the quarters on 11.3.1995 and thereafter, he was paid house rent allowance from April, 1995 at Sambalpur.

2. The case of the Applicant is that from January, 1995, without putting him any notice, the recovery at the rate of Rs. 481.20p per month was made from the salaries of the Applicant. In the counter, it has been disclosed that recovery @ Rs. 418/- per month was made from the salaries of the Applicant from January, 1995. In the counter it has further been disclosed that under a circular/letter dated 15.1.90 (Estt. Sl. No. 39/90) of the Railway Board, a Railway employee can at best retain a quarters, on his transfer, for a period of two months on payment of normal rent and on request he can retain the quarters beyond the said period but on payment of higher rent and in exercise of the said power, recoveries were effected from the salaries of the Applicant w.e.f. January, 1995.

3. To this, the Advocate for the Applicant states that under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Estate Officer, is competent to recover rent or damages in respect of Public premises by quantifying the same.

and on the face of such a statutory provision, the executive instruction of the Railway Board can not have over-riding effect. Further more, it has been submitted by the Advocate for the Applicant that there was even no quantification with notice to the Applicant by the Respondents.

4. On incisive examination of the matter in issue, it appears that before effecting any recovery authorities did not warn the Applicant that for retention of the quarters beyond the period of two months, he had to pay damages/penal rent. No notice was given to the Applicant to have his say in the matter before effecting recovery from the salaries of the Applicant. Even there was no quantification with notice to the Applicant. This action (recovery from the salaries of the Applicant) amounts to violation of principles of natural justice/provisions of Article 14 of the Constitution of India, and, therefore, the said action (recovery of money from the salaries of the Applicant) is nothing but an arbitrary action and therefore, the said action is hereby held to be totally bad, illegal and violative of the Constitutional mandate. Therefore, the Respondents are hereby directed to refund whatever amount they have recovered from the salaries of the Applicant towards penal rent from January, 1995 onwards within a period of three months hence. Since the action of the Railways/Respondents was in gross violation of the constitutional provisions, the Applicant's Advocate prays for imposition of interest on the amount already recovered but in the peculiar circumstances, such prayer is refused.



5. In the conclusion, this Original Application succeeds. The recoveries made from the Salaries of the Applicant from January, 1995 towards penal house rent is directed to be refunded to the Applicant within a period of three months. No costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY) 6/3/02
MEMBER (JUDICIAL)