

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 310 OF 1999
Cuttack this the 8th day of January/2003

Rama Chandra Dehury ... Applicant(s)

- VERSUS -

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *No.*

Manoranjana Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 08/01/2003

9
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 310 OF 1999
Cuttack this the 8th day of January/2003

CORAM:

THE HON'BLE SHRI MANORANJAN MOHANTY, MEMBER (JUDICIAL)

Sri Rama Chandra Dehury, aged about 52 years,
Son of Late Mohan Dehury, resident of Vill/PO- Kantol
Dist-Dhenkanal - at present Sub-Divisional Engineer,
Satellite Communication Project, C/o. Divisional
Engineer, Co- Axial, Maintenance, Telephone Bhawan
Bhubaneswar-751 001

...

Applicant

By the Advocates

M/s. Balam Rout
S.R. Rout
S.B. Senapati

-VERSUS-

1. Union of India represented through Secretary
to Government of India, Ministry of Communications,
Sanchar Bhawan, New Delhi-110 001
2. Chairman, Telecom Commission, Sanchar Bhawan,
New Delhi-110 001
3. Chief General Manager, Telecom Projects,
Eastern Zone, 10-Raja Subodh Mallick Square,
2nd Floor, Calcutta-700 013
4. General Manager, Satellite Communication Project,
No.157/1, V.I.P. Road, CIT Scheme VII M
Second Floor, Calcutta-700 054
5. Chief General Manager, Telecom, Orissa Circle,
Kharavella Nagar, Bhubaneswar-751 001
6. Telecom District Manager, Rourkela-769 001

...

Respondents

By the Advocates

Mr. B. Das,
Addl. Standing Counsel
(Central)

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (J): Heard Shri Balam Rout,
the learned counsel for the Applicant and Shri B. Das,
the learned Addl. Standing Counsel appearing on behalf
Respondents and perused the materials available on record.

J
6

Govt.

2. Applicant was in occupation of Govt. quarters in Sector - 6 in P & T Colony at Rourkela. On his transfer he did not vacate/give the vacant possession of the quarters and continued to occupy the same; for which he was saddled with penal rent. In the said premises, the Applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1935.

3. It is the case of the Applicant that before imposition of penal rent, no notice was given to him to have his say in the matter.

4. In the counter the Respondents have pointed out that for the reason of F.R. 45 A (2), the Applicant was saddled with penal rent, because he overstayed in the said quarters after cancellation of allotment. To this, the counsel for the Applicant has pointed out that the allotment of quarters in question was never cancelled and therefore, the provisions of F.R. 45A (2) is not attracted to his case. It is the case of the Respondents as confessed through the learned Addl. Standing Counsel, Shri B. Das that on the face of the statutory provision under F.R. A(2) no notice was required to be given to the Applicant before imposition of penal rent.

5. ^{the statutory} ~~May be~~ provisions are there, under which penal rent is liable to be assessed, but the said provision is always subservient to the principles of natural justice; which has been embodied in Article 14 of the Constitution of India. Undisputedly no notice was given to the applicant to have his say, before imposition of penal

10

rent. In the notice dated 2.6.1998 given to the Applicant to handover the vacant possession of the quarters in question it was also not pointed out that in the event he (Applicant) failed to give vacant possession of the quarters, he would be saddled with penal rent. Therefore, it can safely be concluded/held that at the time of imposition of penal rent on the Applicant, there was a gross violation of the principles of natural justice/ gross disregard to the provisions of Article, 14 of the Constitution of India. Statutory provisions are always there subject to the public policy of natural justice and statutory provisions. This view gained support of the decision of the Hon'ble Supreme Court rendered in the case of K.I.Shephard vs. Union of India reported in AIR 1988 SC 686. The Hon'ble Supreme Court, in the relevant portion of the said judgment, observed as under :-

" On the basis of these authorities it must be held that even when a State agency acts administratively, rules of natural justice would apply. As stated, natural justice generally requires that persons liable to be directly affected by proposed administrative acts, decision or proceedings be given adequate notice of what is proposed so that they may be in a position (a) to make representations on their own behalf; (b) or to appear at a hearing or enquiry (if one is held); and (c) effectively to prepare their own case and to answer the case (if any) they have to meet"

6. In the aforesaid premises, the penal rent imposed on the applicant under Annexure-5 is held to be unjust as the same has been issued in noncompliance of the principles of natural justice. In this view

7

12

- 4 -

of the matter Annexure-5 is quashed/set aside.

7. In the result, this O.A. is allowed leaving the parties to bear their own costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 08.01.2003

Biy/