

O.A.Nos.158, 159 & 160 of 2003

Order dated 7.4.2004

Since the common question of facts and law is involved, this common order will govern all the three cases mentioned above. For the sake of convenience, the facts of the O.A.No.158/2003 are being referred to herein.

Admittedly the applicants are working under the administrative control of Divisional Railway Manager, now East Coast Railways (being attached to the Medical Department, Khurda) and while so working they were allotted with Govt. quarters in their favour. The allegation made by the applicants, that all on a sudden, without assigning any reason, the railway authorities started deducting damage rent to the tune of Rs.2783/- from the salaries of the applicants commencing from the month of February, 2003. The applicants, it is stated, that protested this unilateral action of the Respondents by filing representations before the competent authority, but without any effect. Hence this application.

The Respondents, on the other hand, have alleged that the applicants, who were allotted with railway quarters, instead of residing therein, ~~present~~ on subletting those quarters to outsiders in deviation of the terms and conditions of allotment of quarters and thereby the discipline in the department fettered. The Respondents have further submitted that on receipt of complaints with regard to large scale subletting of quarters from time to time

Copy of common order  
off. 7/4/04 issued to  
the counsel for both  
sides.

My  
13/4/04

W. B. 14/4/04  
S. C.

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it was decided to set up a committee for the Medical Department of the Railways under the Chairmanship of Senior officers to enquire into the matter and to recommend the remedial measure. It is in consequence of carrying out the inspection by the said Committee, 27 railway medical staff including the applicants herein were found to have not been residing in the railway quarters, and it was found that some outsiders/railway employees of other Department were in occupation of those quarters and in the circumstance, on receipt of the recommendations of the Committee, the competent authority decided to realise damage rent from the erring staff and also to initiate further proceedings in that behalf. It is the categorical submission of the Respondents that they never had received any representation from the applicants before deduction of damage rent started from their salary.

Heard Shri M.B.K.Rao, learned counsel for the applicants and Shri S.K.Ojha, learned Addl Standing Counsel in all the three OAs and perused the materials available on record. It is the case of the applicants that before realising the damage rent from their salary they should have been put to notice to defend themselves with regard to truthfulness or otherwise of the allegation.

The matter concerns allotment of Govt. quarters to the staff in terms of the Allotment of Quarters Rules framed in that regard by the Respondents-Department in terms

of Railay Board's letter No.E(G)/92 02.1-20 (Master Circular) dated 19.1.1993 (RBE No.12/93) Imposition of damage rent for unauthorized occupation for residential accommodation is governed in terms of Railway Board's letter No.F(X) 1/72/RN-3/1 dated 20.3.1976 and the matter concerning imposition of damage rent and eviction of occupants from such Govt. quarters are governed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (in short P.P. Act) and the authorized person has been appointed under this Act for determining damage as also to pass orders with regard to eviction under that Act. The Apex Court in Rashila Ram case have held that that the matters concerning eviction, damage rent etc. are governed by the provisions under the P.P. Act and the Tribunal has no jurisdiction to entertain the matter arising out of P.P. Act. In the circumstances, the issue involved in all the three applications being retention/eviction/determination of damage rent for unauthorized occupation and/or subletting which is governed under the P.P. Act, this Tribunal, in my considered view, lacks jurisdiction to deal with the matter. In this view of the matter, these three OAs are dismissed being not maintainable. The interim order passed earlier, in view of dismissal of the O.A. stood merged with the final order.

However, liberty is given to the applicants to represent <sup>t</sup> the authorities competent to grant stay on the recovery of

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damage rent from their salary till they move the appropriate forum, as directed above, for redressal of their grievances. No costs.

  
VICE-CHAIRMAN