

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 414 & 415 OF 2003
Cuttack this the 5th day of 2004
/Nov.

IN O.A. No. 414/03

Smt. Tulasvi Behera ... Applicant(s)

- VERSUS -

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

IN O.A. No. 415/03

Syed Nasimuddin ... Applicant(s)

- VERSUS -

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

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *VS*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *VS*

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NOS.414 & 415 OF 2003
Cuttack this the 5th day of Nov. 2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

IN O.A.NO.414/03

Smt. Tulasi Behera, aged about 55 years six months, Wife of late Loknath Behera, working for gains as Khalasi Helper under Senior Section Engineer(Works) E.Co.Rly., Bhubaneswar - at present residing at Jageswarpatna P.O., Sundarapada, Bhubaneswar, Dist-Khurda - PIN 751 002

... **Applicant**

IN O.A.No.415/03

Syed Nasimuddin, aged about 32 years six months, son of late Syed Mohinuddin, working for gains as Khalasi Helper under Senior Section Engineer(Works), E.Co. Rly., Bhubaneswar - at present residing at Railway Qr.No.E/29/C, Railway Colony, Unit-III, Bhubaneswar, Kharabelanaqar, PIN-751001

... **Applicant**

By the Advocates

Mr. Achintya Das

— VERSUS —

IN BOTH THE OAS

1. Union of India service through General Manager E.Co.Railway, Chandrasekharpur, Bhubaneswar
2. Member Staff, Railway Board, Rail Bhavan, New Delhi
3. Divisional Railway Manager, E.Co.Railway, Khurda Road, PO-Jatni, Dist-Khurda, PIN-752050
4. Assistant Divisional Engineer, E.Co.Railway, Bhubaneswar, PIN - 751 001

... Respondents

By the Advocates

Mr. T. Rath A.S.C.

**— — — — —
O R D E R**

MR. B.N.SOM, VICE-CHAIRMAN: Since the grievance raised by the applicants in both the above mentioned OAs arises out of common cause of action under similar circumstances and the questions to be decided being one and the same.

in the fitness of things, this common order will govern the future service benefits of both the applicants herein. For the sake of convenience, the facts of the O.A.414/03 are being referred to.

2. Shorn of unnecessary details, it would suffice to note that the applicants herein have assailed the deduction of damage rent from their salary as well as initiation of disciplinary proceedings for the reason of alleged subletting of railway quarters allotted to them. It is in this background, they have prayed for the following reliefs.

"... directing the respondents to withdraw and cancel the charge memorandum dated 5.3.03 (Annexure-A/1); and

directing the respondents to stop recovery of damage rent from the salary of the applicant and to refund the amount, which has already been recovered as damage rent from June, 2003".

3. Respondents-Railways have filed their detailed counter opposing the prayer of the applicant.

4. I have heard the learned counsel for the parties and perused the materials adduced before me.

5. Both the matters came up for admission on 31.7.2003. While directing issuance of notice to the Respondents, as an interim measure, this Tribunal restrained the opposite-parties/Respondents not to recover damage rent from the salaries of the applicants. This interim order is in force till this day.

6. Similar matter in O.A.Nos.158,159 and 160/03 came up before this Tribunal. After an elaborate discussion, this Tribunal, while disposing of those OAs vide its order

7.4.2004, relying on the decision of the Hon'ble Supreme Court in the case of Rashila Ram observed as under :

"...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."

7. Apart from the above, in the instant OAs both the applicants have prayed for two distinct and separate reliefs. Rule 10 of the C.A.T.(Procedure) Rules, 1987 deals with Plural remedies. It lays down that "an application shall be based upon a single cause of action and may seek one or more reliefs, provided that they are consequential to one another". The prayers (as quoted above) made by the applicants herein can by no stretch of imagination could be held consequential to one another. Thus both the OAs are hit by plural remedies.

8. For the reasons discussed above, both the OAs are dismissed being not maintainable. The interim order dated 31.7.2003 passed by this Tribunal in both the OAs stands vacated.

9. While disposing of both the OAs as above, liberty is granted to the applicants to represent to the authorities competent to grant stay on the recovery of damage rent from their salary till they move the appropriate forum, on the basis of observations as quoted above, for redressal of their grievances. As regards the charges levelled against the applicants vide Annexure-A/1, it would not be proper for the Tribunal to interfere in the

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at the very threshold thus fettering the discretion of the departmental authorities to proceed in accordance with law.

There shall, however, be no order as to costs.


(B.N. SOM)
VICE-CHAIRMAN

BJY