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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 448 OF 2003
Cuttack this the 5th day of November/2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
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Keshab Ch. Nayak, aged about 54 years,
Son of Gajendra Nayak, village-Dagarasahi,
PO-Harianta, Via-Chowdwar, Dist-Cuttack -
working as Guard-A, Khurda Road, East
Coast Railway, At/PO-Jatni, Dist-Khurda

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Applicant

By the Advocates

M/s. S.K. Dash
S.K. Mishra
B. Mohapatra
S. Dash
Ms. A. Dhalasamant

- VERSUS -

1. Union of India represented through the
General Manager, East Coast Railways, Rail
Vihar, Chandrasekharpur, Bhubaneswar,
District-Khurda
2. Senior Divisional Operations Manager, East
Coast Railways, Khurda Road
3. Senior Divisional Personnel Officer, East
Coast Railways, Khurda Road

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Respondents

By the Advocates

Mr. O.N. Ghosh, A.S.C.

O R D E R

MR. B.N. SOM, VICE-CHAIRMAN: Assailing the order dated
17.2.2003 (Annexure-1) directing recovery of damage rent
from his salary from 29.11.2002 till the date of vacation
of the subletted quarters, the applicant (Shri K.C. Nayak)
who is working as Guard-A in East Coast Railways, Khurda
Road, has approached this Tribunal under Section 19 of
the A.T. Act, 1985, for quashing the said impugned order
under Annexure-1 as well as Annexure-2 dated 21.5.2003.

2. Respondents-Railways have filed their counter
opposing the prayer of the applicant as made in this O.A.

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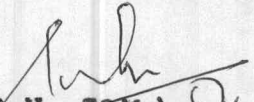
3. I have heard Shri S.K.Dash, learned counsel for the applicant and Shri O.N.Ghosh, learned Addl.Standing Counsel appearing on behalf of the Respondents and perused the materials placed before me.

4. Shorn of unnecessary details, it is worth mentioning that the point at issue in this O.A. is one and the same as that of the O.A. No.438/2004, wherein the very same Annexures were sought to be quashed. That O.A. has been rejected on the ground of lack of jurisdiction by this Tribunal since the matter involved therein arose out of retention/eviction/determination of damage rent for unauthorised occupation and/or subletting, which is governed under P.P.Act. Following the decision of the Hon'ble Apex Court in Rashila Ram case this Tribunal also took this view in O.A.Nos.158, 159 and 160 of 2003 - disposed of on 7.4.2004 as well as in O.A. Nos.414 and 415 of 2003 - disposed of on 5.11.2004. As indicated earlier, the instant O.A. being covered by the decision of O.A.No.438/2003 and the other OAs referred to above, it is undesirable to take a different view from the view that has already been taken in similar matters under similar circumstances.

Before part^{ing} with this case, I would grant liberty to the applicant herein to ventilate his grievance in the matter of granting stay on recovery of damage rent through a proper representation to the authorities competent in the Department, till he (applicant) moves the appropriate forum, if so advised.

5. For the reasons discussed above, this O.A. is dismissed being lacked in jurisdiction. No costs.

6. Interim order, if any, passed in this case stood merged with the order disposing of the O.A. as above.


(B.N. SOM)
VICE-CHAIRMAN

BJY