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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 213 OF 2002
Cuttack this the 19th day of February/2004

Ashok Kumar Mohanty

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Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

FOR INSTRUCTIONS

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


(B.N. SOM) *ye*
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.213 OF 2002
Cuttack this the 19th day of February/2004

CORAM:

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

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Ashok Kumar Mohanty, aged about 41 years,
(S/o. Late Arta Bandhu Mohanty) presently
posted as Senior Traffic Inspector, Office
of the Chief Traffic Manager, B/6,
Railvihar, B.D.A. Renta Colony,
Chandrasekharapur, Bhubaneswar-751023

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Applicant

By the Advocates

M/s.L.K.Mohanty
M.R.Das

-VERSUS-

1. Union of India represented through the
General Manager, South Eastern Railway,
At/PO-Garden Reach, Kolkata
2. Divisional Railway Manager (P) of South
Eastern Railway, Khurda, At/PO-Khurda Road,
Dist-Khurda
3. Chief Personnel Officer, East Coast Railway,
Bhubaneswar, At/PO-Bhubaneswar
4. Senior Personnel Officer, East Coast Railway,
Bhubaneswar, Dist-Khurda
5. C.T.M. East Coast Railway, Bhubaneswar,
At/PO-Bhubaneswar, Dist-Khurda
6. Chairman of Quarter Committee and Assistant
Engineer, S.E.Railway, Bhubaneswar,
At/PO-Bhubaneswar, District-Khurda

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Respondents

By the Advocates

Mr.D.N.Mishra
Mr.R.C.Rath

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O R D E R

MR.B.N.SOM, VICE-CHAIRMAN: Heard Shri L.K.Mohanty,
learned counsel for the applicant and Shri R.C.Rath,
learned Standing Counsel appearing on behalf of the
Respondents and perused the materials available on
record.

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2. By filing this application, Shri Ashok Kumar Mohanty, Senior Traffic Inspector (applicant) has prayed for the following reliefs:

"... the order of recovery dated 16.12.99 under Annexure-5 be quashed;

... the order of rejection of appeal dated 11.4.2000 under Annexure-7 and order dated 07.11.2001 under Annexure-11 be quashed; and

... the respondents be directed to refund the amount which has been illegally deducted from the salary of the applicant towards damage rent".

3. From the facts of the case it reveals that the applicant was allotted with quarters bearing No.Con./II/C at Bhubaneswar. On 3.1.1996 the applicant, on his promotion to the post of Jr.D.T.I. was transferred to Talcher. He thereafter represented to the competent authorities to consider his case for retention of the said quarters at Bhubaneswar on the grounds of his children's education. His grievance is that although the authorities had allowed retention of quarters from 13.12.1996 till the Month of 7/97 on payment of normal licence fee, they did not allow retention of quarters on his posting back to Bhubaneswar in September, 1998. Instead, they have imposed on him damage rent amounting to Rs.58,177/- to be recovered from his salary in 50 instalments. Hence this application.

4. Respondents-Railways by filing a detailed counter have contested the application. They have submitted that they had carefully considered the representation submitted by the applicant for retention of quarters on the grounds of education of his children and had accordingly allowed him to keep the quarters at Bhubaneswar on payment of

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normal rent till July, 1997. After July, 1997, there was no case for granting or extending him retention of quarters and as per the Departmental regulations, they had asked the applicant to pay damage rent as per the prescribed rate. They have further submitted that notwithstanding the departmental instructions existing in this matter, they have considered the representation dated 28.8.2000 (Annexure-8) submitted by the applicant for regularisation of his retention of quarters from 11.8.1997 to 13.9.1998 at the highest level, i.e., at the level of Divisional Railway Manager(P)/SER/KUR, who however, found it not permissible to consider his case on the ground that as his previous place of posting was at Talcher his case was not covered under the Railway Board's letter dated 19.2.1999 (however, the date of Railway Boards letter under Estt.Sr.No.6/97 appears to be 6.1.1997) (Annexure-1). Under the said Railway Boards' letter it has been laid down that retention of railway accommodation at the previous place of posting will only be allowed in favour of the staff/officers in case the posting took place from one zonal railway to another zonal railway but not in case of intra zonal transfer. They have further stated that the competent authorities have always been sympathetic to the need of the applicant and that is how they had allowed retention of quarters on payment of normal rent even beyond the academic session of his children, i.e., till 7/1997. Thereafter they have not taken any action for eviction of the applicant from the quarters, but have levied damage

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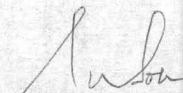
rent at the prescribed rate as given in Estt.Sl. No.22/98 (Annexure-R/6). The learned counsel Shri Rath pointed out that there has been some arithmetical error in claiming a sum of Rs.51,177/- which has been corrected and the net demand on the applicant for payment of damage rent for retention of quarters beyond the permissible date has been recalculated at Rs.45,726.94 which includes normal licence fees for the period from 11.12.1996 to 10.7.1997 at the rate of Rs.69/- per month. They have, therefore, submitted that as the applicant after being posted back to Bhubaneswar was obliged ^{to apply} ~~for~~ allotment of accommodation according to the rules made in this regard, he having not ~~done~~ so and having retained the quarters without authority is liable to pay damage rent for the period of such retention. Accordingly, he has been asked to pay the damage rent for the period he occupied the quarters in his possession without authority.

Shri Rath has drawn my notice to the Full Bench decision of the Central Administrative Tribunal (Patna) in the case of Sri Ramabalav vs. Union of India & Ors. wherein, the Full Bench of the Tribunal, in similar circumstances held that for occupation of quarters without authority, a railway servant is liable to pay damage rent so levied by the Respondents-authority. As by virtue of the said judgment the rule is now well settled that retaining quarters in an unauthorized manner entails liability of payment of damage rent, I have no hesitation

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but to hold that the applicant by occupying the quarters beyond the permissible period, i.e., 7/97 without any authority is liable to pay damage rent as prescribed under the Railway Estt.Sl.No.22/98.

For the reasons discussed above, I see no merit in this O.A., which is accordingly dismissed, upholding the order of recovery of Rs.45,726.94, which includes normal licence fee for the period from 11.12.1996 to 10.7.1997 is payable by the applicant to the Respondents-Department. I hope and trust the respondents will allow the applicant to pay off the amount in easy monthly instalments. No costs.


(B.N. SOM) 9/10/98
VICE-CHAIRMAN

BJY