

11

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.860 OF 2005

Cuttack, this the 17th day of January 2007

A. Yoganandam Applicant


VERSUS

Union of India and others Respondent(s)

FOR INSTRUCTIONS

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


N.D. RAGHAVAN
(VICE-CHAIRMAN)


B.B. MISHRA
(MEMBER (ADMN.))

12

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.860 OF 2005
Cuttack, this the ^{17th} day of January 2007

CORUM:

HON'BLE SHRI N.D.RAGHAVAN, VICE-CHAIRMAN
AND
HON'BLE SHRI B.B.MISHRA, MEMBER(ADMINISTRATIVE)

In the matter of:-

A.Yoganandam, aged about 58 years, S/O-Late A.K.Murthy, House of
M.Murali, Opposite to R.P.F. Barrack Loco Colony, Khurda Road,
P.O.Jatni-752050, Dist-Khurda(Orissa).

Advocates for the Applicant

..... Applicant
..... M/S.Ramanikanta Pattnaik
S.C.Puspalak,
S.S.Jena,
A.N.Samantray,
M.C.Mohanty,
S.Samal, S.C.Beura.

VERSUS

1. Union of India represented through the General Manager, South Eastern Railway, II, garden Reach Road, Kolkatta-700043.
2. Divisional Railway Manager, South Eastern Railway, P.O.-Kharagpur, Dist-Midnapur(West Bengal).

..... Respondents

Advocates for the Respondents

..... Mr.T.Rath (for R.1)

13

ORDER

MR.B.B.MISHRA, MEMBER(A)

Applicant was working as Senior Clerk in the Railways. On attaining the age of superannuation, he retired from Railway Service w. e. f. 30.04.2005. The Applicant being aggrieved by the deduction of an amount of Rs. 46,322/- towards unauthorized retention of railway quarters and Electricity Charges & Rs. 1037/- from his Group Insurance Scheme as also deduction of an amount of Rs. 1663/- towards commission for encashing the cheque, has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985,

2. According to Respondents the applicant came on transfer from Khurda Road Division on his own request. As per the rules, he was entitled to retain the official accommodation at his old station till academic year of his children. As per the Rules, the applicant was entitled to retain the quarters for a period of 2 months i.e. 16.7.2002 to 15.9.2002 on payment of normal licence fee and thereafter from 16.9.2002 to 31.5.2003 on payment of special licence fee and retention of quarters from 1.6.2003 to 31.5.2005 has been treated as unauthorized as per the Estt. Sl. No.1 66/2001 (Annexure-R/I) for which an amount of Rs.46,322/- was deducted from the DCRG ✓

amount of the Applicant. As regards CGIS it has been pointed out by the Respondents that it was wrong to say that the applicant was entitled to Rs.21,490/-. According to the applicant, as per the Estt. Sl.No. 262/1989 (Annexure-R/3) he was entitled to Rs.20,453/- which was rightly paid to him. It has been pointed out by the Respondents that since SBI Khurda is the authorized Bank of the railways, the amount was rightly paid to the applicant through that Bank and, therefore, the applicant has hardly any grievance in the matter.

3. During hearing, Learned Counsel appearing for the Applicant has argued that in absence of any intimation that if the applicant did not vacate the quarters beyond the prescribed period, he is liable to pay higher rate of rent, the unilateral deduction of the amount from the DCRG for unauthorized occupation of the quarters is illegal. Per contra, Learned Counsel for the Respondents has argued that the Respondents had done nothing beyond the Rules. It was not necessary to intimate a railway servant to vacate the quarters within the prescribed period. As a bona fide employee, he is supposed to know the rules and vacate the quarters in time. Therefore, there was no wrong in the action of the Respondent.

4. From the materials placed on record, we find that the retention of quarters was beyond the permissible limits provided in the

-3-15

Rules. We also find that the deduction of the amount from DCRG is not only as per the Rules but also as per the law laid down by the Hon'ble Apex Court in the case of **Wazir Chnd v. Union of India & Ors**, JT 2000 (Suppl.1) SC 515. The entire judgment is quoted herein below:

- "1. These appeals are directed against the orders of the Central Administrative Tribunal rejecting the claim of the appellant, who happens to be a retired railway servant. Admittedly, the appellant even after superannuation, continued to occupy the Government quarter, though being placed under hard circumstances. For such continuance, the Government, in accordance with Rules, has charged penal rent from the retired Government servant, and after adjusting the dues of the Government, the balance amount of the gratuity, which was payable, has been offered to be paid, as noted in the impugned order of the Tribunal. The appellant's main contention is that in view of the Full Bench decision of the Tribunal against which the Union of India had approached this Court and the Special Leave Application was dismissed as withdrawn, it was bounden duty of the Union of India not to withhold any gratuity amount, and, therefore, the appellant would be entitled to the said gratuity amount on the date of retirement, and that not having been paid, he is also entitled to interest thereon. We are unable to accept this prayer of the appellant in the facts and circumstances of the present case. The appellant having unauthorizedly occupied the Government quarter, was liable to pay the penal rent in accordance with Rules, and therefore, there is no illegality in those dues being adjusted against the death-cum- retirement dues of the appellant. We, therefore, see no illegality in the impugned order

-4- 10

which requires our interference. The appeals stands dismissed."

5. In view of the above, we find no justification to interfere in the matter. Hence, this OA stands dismissed by leaving the parties to bear their own costs.


(N.D. RAGHAVAN)
Vice-Chairman 17/11/07


(B.B. MISHRA)
Member (A)