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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 155 of 2012

Cuttack, this the 21st day of March, 2014

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THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

THE HON'BLE MR.R.C.MISRA, MEMBER ADMN.)

.....

Shri K.Ramulu, aged about 66 years, S/o. Late Venkata Swamy, permanent resident of M/s.Sai Mini Diary, Door No. 20/26, Engineering College Road, Sunkarapeta, Po.Malicherla, Dist. Vizianagaram-3 (Andhra Pradesh)

.....Applicant

(Legal Practitioner:-M/s.B.S.Tripathy, M.K.Rath, J.Pati & Mrs. M.Bhagat)

Versus

UNION OF INDIA REPRESENTED THROUGH-

1. The General Manager, East Coast Railway, Rail Vihar, At/Po.Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Commercial Manager, East Coast Railway, Rail Vihar, At/Po.Chandraekharpur, Bhubaneswar, Dist. Khurda.
3. The Chief Personnel Officer, East Coast Railway, Rail Vihar, At/Po.Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. The Divisional Railway Manager, East Coast Railway, Khurda Road, Dist Khurda.
5. The Additional Divisional Railway Manager, East Coast Railway, Khurda Road, Dist. Khurda.
6. The Senior Divisional Commercial Manager, East Coast Railway, Khurda Road, Dist. Khurda.
7. The Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, Dist. Khurda.
8. The Divisional Commercial Manager, East Coast Railway, Khurda Road, Dist. Khurda.
9. The Asst. Commercial Manager, East Coast Railway, Khurda Road, Dist. Khurda (the Inquiry Officer).

.....Respondents

(Legal practitioner: Mr.R.N.Pal)



O R D E R

A.K.PATNAIK, MEMBER (JUDICIAL):

The Applicant is a retired employee of the Railway. He has filed this Original Application U/s. 19 of the Administrative Tribunals Act, 1985 praying to quash the order dated 12.03.2008 in which the applicant was ordered to pay the damaged rate/rent for the alleged unauthorized occupation of the Railway quarters from 27.12.1991 to 07.10.2002, the orders dated 31.05.2010 and 09.08.2011 which were passed on the appeal and thereafter revision preferred by him with further prayer to direct the Respondents to refund the damage rent illegally withheld from his retrial dues amounting to Rs.1,98,883/- with interest @ 12% per annum. The wholesome case of the applicant is that, as held by this Bench and other Benches of the Tribunal in various cases, imposition of damage rate/rent, without following the due procedure of Public Premises Eviction Act the orders passed imposing damage rate/rent is not sustainable. The case of the Respondents in nut shell is that as the applicant did not vacate the quarters allotted to him the damage rate/rent was rightly imposed on him and as imposition of such damage rate/rent was after giving the applicant due opportunity, in compliance with the principles of natural justice, no interference is warranted and therefore, this OA is liable to be dismissed.

2. This OA was admitted on 01.03.2012. Thereafter, as per the Rules, the matter was placed before the Registrar's Court, for the sake of completion of pleadings. As no counter was filed within the stipulated period, the matter was listed to Bench on 21.12.2012 when on the specific

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prayer of Mr.R.N.Pal, Learned panel Counsel of the Railway, three weeks time was allowed to the Respondents to file counter and counter was filed on 02.01.2013 to which the Applicant has also filed rejoinder on 06.05.2013. The matter was listed twice i.e. on 23.10.2013 and 13.11.2013 but on each occasion due to lawyers' strike the matter was adjourned to 06.01.2014 and again the matter was adjourned to 30.01.2014. On 30.01.2014 after hearing Mr.B.S.Tripathy, Learned Counsel of the Applicant and Mr.R.N.Pal, Learned Panel Counsel for the Railway Respondent IN PART, the matter was directed to be listed after one week. Accordingly the matter was listed on 5th March, 2014 and Mr.Tripathy, Learned Counsel for the applicant submitted that as the applicant being a retired employee this matter may be taken up for final disposal today. Mr.R.N.Pal, Learned Panel Counsel has prayed for time on the ground that this matter has not been entrusted to him. But do not feel justification to grant time especially when the matter was heard in part and we find that this the issue raised in this OA is no more *res integra* as decided by this Bench of the Tribunal in other cases. Accordingly, after being heard, perused the materials placed on record.

3. We find that imposition of damage rate/rent for unauthorized occupation of a Railway quarters by a Railway employee came up for consideration before this Tribunal in OA No.778 of 2011 in which this Tribunal, vide order dated 24th January, 2014, relying on the order of the Patna Bench of the Tribunal in the case of Raghunath PD Srivastava v.



Union of India and others in OA No. 608 of 1994 disposed of on 06.06.1996 (reported in 434.Swamy's CL Digest 1996/2) held as under:

"5. Since in the instant case damage rent has been imposed without following due procedure provided under PPAct, I do not find any justification to make any departure from the view already taken by the Patna Bench of the Tribunal. Therefore, by applying the ratio of the decision rendered in the case of S.I.Rooplal (supra) imposition and consequential recovery made towards damage rent for the alleged non-vacation of the Railway Quarters No.L/27/11 at Bhadrak from 19.11.2001 to 11.07.2005 is held to be illegal and resultantly, rejection of the representation in letters dated 05.07.2010/18.08.2010 & 19.08.2010/ 03.11.2010 are hereby quashed. Consequently, the Respondents are directed to refund the amount already recovered from the applicant towards damage rent within a period of thirty days from the date of receipt of copy of this order. In the result, this OA stands allowed to the extent stated above. There shall be no order as to costs."

4. We find no reason to differ from the view already taken in earlier case by this Bench and the Patna Bench of this Tribunal. The Hon'ble Apex Court in the case of *Sub-Inspector Rooplal v. Lt. Governor, (2000) 1 SCC 644*, held as under:-

"12. At the outset, we must express our serious dissatisfaction in regard to the manner in which a Coordinate Bench of the Tribunal has overruled, in effect, an earlier judgment of another Coordinate Bench of the same Tribunal. This is opposed to all principles of judicial discipline. If at all, the subsequent Bench of the Tribunal was of the opinion that the earlier view taken by the Coordinate Bench of the same Tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two Coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedents. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle

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which every presiding officer of a judicial forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again that precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bound by the enunciation of law made by the superior courts. A Coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of Tribhovandas Purshottamdas Thakkar v. Ratilal Motilal Patel while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same Court observed thus:

The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in Pinjare Karimbhai case and of Macleod, C.J., in Haridas case did not lay down the correct law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it. Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by courts of coordinate authority or of superior authority. Gajendragadkar, C.J., observed in Bhagwan v. Ram Chand :

'It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that if a learned Single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a Single Judge, need to be reconsidered, he should not embark upon that inquiry sitting as a Single Judge, but should refer the matter to a Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety.'

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5. Aforesaid being the position of facts and law, we quash the orders dated 12.03.2008 imposing damage rate/rent for the alleged unauthorized occupation of the Railway quarters by the applicant without following the recourse of Public Premises Eviction Act and subsequent orders dated 31.05.2010 and 09.08.2011 upholding the order dated 12.03.2008 and direct the Respondents to refund the applicant the amount withhold from his retiral dues towards damage rent/rate. However, quashing of the orders will not preclude the Respondents to proceed under the Public Premises Eviction Act and in that event release of withheld amount will depend on ultimate final out come of the said proceedings. In the result, this OA stands allowed to the extent stated above. There shall be no order as to costs.



(R.C.MISRA)
Member (Admn.)



(A.K.PATNAIK)
Member(Judicial)