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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No.260/00863 of 2014
Cuttack, this the 23rd day of December, 2014

**CORAM
HON'BLE MR. R. C. MISRA, MEMBER (A)**

Prasanta Kumar Khilar,
aged about 55 years,
S/o. Sri Premananda Khilar,
Resident of Vill- Petapur,
PO- Govindapur Kutchery
PS- Aul, Dist- Kendrapara,
Presently working as Asst. Accounts Officer (RT)
In the office of the Principal Accountant General (A&E),
Odisha, Bhubaneswar.

...Applicant

(Advocates: M/s. S.P.Mohanty, P.Lenka-2, B.C.Pradhan)

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Union of India Represented through

1. Comptroller and Auditor General of India,
Pocket-9, Deen Dayal Upadhyaya Marg,
New Delhi-110124.
2. Accountant General (G&SSA), Odisha,
Sachivalaya Marg, Bhubaneswar.
3. Deputy Accountant General (Admn)-cum- Estate Officer,
Office of the Accountant General (G&SSA), Odisha,
Sachivalaya Marg, Bhubaneswar.
4. Audit Officer/Estate Cell,
Office of the Accountant General (G&SSA),
Odisha, Bhubaneswar.
5. Principal Accountant General (A&E) Odisha,
Sachivalaya Marg, Bhubaneswar.
6. Deputy Accountant General (Admn),
Office of the Principal Accountant General (A&E),
Odisha, Bhubaneswar.

...Respondents

(Advocate: Mr. M.K.Das)

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ORDER (ORAL)

R.C.MISRA, MEMBER (A):

Heard Mr. S.P.Mohanty, Learned Counsel for the Applicant, and Mr. M.K.Das, Ld. Addl. Central Government Standing Counsel representing the Respondents.

2. The applicant in the present case is an Assistant Accounts Officer in the office of the Principal Accountant General, Orissa, Bhubaneswar. His grievance is against the order dated 19.09.2014 passed by the Audit Officer/ Estate Cell, Office of the Accountant General (G&SSA), Odisha, Bhubaneswar, directing recovery of Rs. 1,99,682/- from the salary of the applicant towards damage rent charged on account of over stay in the official quarters in AG Colony, Bhubaneswar by the applicant during his period of deputation. The Ld. Counsel for the applicant submitted that the applicant joined in the deputation post as Assistant Communication Accounts Officer on 18.07.2012 for a period of one year and during this period he was in occupation of his Govt. quarters in the New AG Colony, Bhubaneswar, which was earlier allotted to him. The applicant had made a request to Respondent No.3, i.e. Deputy Accountant General-cum-Estate Officer to permit him to retain the quarters during the period of his deputation which was in the same city on payment of normal standard license fee. There was no response from the Respondent No.3 to such request. After a lapse of some time a letter dated 11.07.2013 was issued by the Respondent No.3 to the applicant asking him to give his willingness for allotment of Type-II quarters to the Respondent No.1. It may be mentioned here that earlier the applicant was staying in Type-III quarters. The applicant in response to this letter gave his consent. After expiry of 10 months of this incident the applicant was directed to vacate the Govt. accommodation of Type-III quarters within a period of 15 days since he was in unauthorized

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occupation. It was also intimated to the applicant that damage rent at the rate of 41 times of the normal license fee will be levied for the period of overstay beyond the permissible period. It was further intimated that if he fails to vacate the quarters then the eviction proceedings under Public Premises Unauthorized Occupation Act 1971 shall be initiated. In the meantime, the applicant gave a representation before Respondent No.3 mentioning that he had now opted for repatriation and was going to join his parent office on 15.05.2014 and reiterated his request for charging of normal license fee for his continuance in the type -III quarters. He also made a representation through Respondent No.3 to the Deputy Comptroller and Auditor General of India for waiving of the damage rent. In spite of these representations, on 19.09.2014 the Respondent No.4 intimated the office of Respondent No.5 to recover damage rent of Rs. 1,99,682/- for the period 18.03.2013 to 14.05.2014 treating the period as unauthorized occupation. The applicant not being satisfied with the action of the Respondents has again made appeal to Deputy Comptroller and Auditor General in the office of Respondent No.1 with a prayer to revise the damage rent and prayed for interim stay of recovery till final decision. The applicant has enclosed this representation dated 30.10.2014 as Annexure-A/17 to this O.A.

3. The case made out by the Ld. Counsel for the applicant is that the action of the Respondent in charging damage rent is wholly illegal and unauthorized. He also pleaded that similarly situated persons like one H.S.Rout, Asst. Audit Officer has been allowed to retain Type-III quarters during deputation period. Moreover while the appeal dated 30.10.2014 is still not decided by the Deputy Comptroller and Auditor, the Respondent No.3 has started taking action to recover the penal damage rent.

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4. At this stage, a question was raised ^{to} by the applicant's counsel, whether for assessment of the damage rent proceeding under the Public Premises Eviction Act has been followed. By clarifying this point, Ld. Counsel stated that order of recovery of damage rent was wholly an administrative order and has not been passed under the said Act. He has also produced a copy of the order dated 04.12.2014 of the office of Principal Account General, Orissa in which the administrative decision for recovery of damage rent has been issued with the approval of Principal Account General. Therefore, the submission of the Ld. Counsel for the applicant was that without ^{making} ~~keeping~~ resort to the proper procedure as laid down in the PPE Act, the Respondents were unauthorized to pass any order regarding imposition damage rent. In this regard, he brought my attention to the order of the CAT, Principal Bench passed on 09.01.2014 in O.A. No. 13/12 in which it was decided that the damage rent cannot be imposed unless the procedure under Section 7 of the PPE Act is followed.

5. I find from the records that applicant has made an appeal against the imposition and recovery of damage rent from his salary to the Deputy Comptroller and Auditor General (Admn.) in the office of Comptroller and Auditor General of India through the Deputy Accountant General (Admn.)-cum-Estate Officer, i.e. Respondent No.3. It is also revealed that this representation was received by the Respondent No.3 on 30.10.2014. The applicant has mentioned the detailed ground in his petition praying for intervention of Respondent No.1 in waiving the damage rent demanded by the Estate Officer. He has also prayed that till the final decision is communicated from Respondent No.1 the proposed recovery may be kept in abeyance.


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6. In view of the above pending representation on which the final decision has not been communicated by the authorities, without going into the merits of this matter, I would direct the Respondent No.1 to dispose of the pending representation with a reasoned and speaking order and communicate his decision to the applicant within a period of 60 days from the date of receipt of a copy of this order. It is also directed that till the appeal/representation is disposed of no further recovery of the damage rent shall be made from the applicant.

7. With the aforesaid observation and direction, this O.A. stands disposed of at the stage of admission itself.

8. Copy of this order, along with paper book, be sent to Respondent No. 1 and 3 by Speed Post at the cost of the applicant for which Mr. Mohanty, Ld. Counsel for the applicant, undertakes to file the postal requisites by 26.12.2014.


(R.C.MISRA)
MEMBER(Admn.)