

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Add1 CALCUTTA BENCH

O. A. No. 1106 of 1996
TxXXXXXX

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Date of Decision..... 28 - JUNE - 2001

R. P. Mondal

Petitioner

Mr. B. Chatterjee.

Advocate for the
Petitioner(s)

- Versus -

Union of India & Ors.

Respondents

Mr. M. K. Bandopadhyay

Advocate for the
Respondent(s)

C O R A M .

The Hon'ble Mr. Justice S. Narayan, V.C.

The Hon'ble Mr. L. R. K. Prasad, I(A)

1. Whether reporters of local papers may be allowed to see the judgement ? *yes*
2. To be referred to the reporter or not ? *yes*
3. Whether it needs to be circulated to other Benches of Tribunal. *yes*

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28/6/01

without permission, the Estate Officer, being the authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, determined damage rent as per the order contained in the letter dated, 25th July, 1996, as at Annexure-R/3, and, accordingly, the aforesaid sum of Rs. 1452.30/- was deducted from the applicant's salary.

4. Insofar as, the proceeding initiated against the applicant in terms of the provision of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as per notice dated, 19th July, 1996, vide Annexure-R/4, and the order dated, 25th July, 1996, of the Estate Officer (Annexure-R/3), determining the amount of damage rent, ~~was concerned~~, there was no controversy raised, nor it could have been that this Tribunal has no jurisdiction to entertain any objection in regard to the steps taken or the order passed under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971. We would, therefore, abstain ourselves expressing any opinion on the issue of treating the applicant's occupation of the quarters in question as unauthorised, and also the order of the Estate Officer determining the amount of damage rent, for want of jurisdiction.

5. However, the instant O.A. was simply confined to the mode of realising the damage rent as determined by the Estate Officer. It was urged on behalf of the applicant that the Railway respondents were not entitled to realise the damage rent by way of deduction from the salary for the reason that they had taken the matter to the authority concerned in accordance with the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Our attention was drawn to the provision as



contained in Section 14 of the aforesaid Act which prescribed the mode of recovery of rent, etc., as an arrear of land revenue. Under such provision, the Estate Officer could have issued a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

6. In order to better appreciate the point raised above, our attention has been rightly drawn to a decision of the Hon'ble Supreme Court in the case of Union of India Vs. Rasila Ram & Ors., reported in 2001 (1) Administrative Total Judgments P. 261, wherein, it was held that once a Government servant is held to be in occupation of Government premises as an unauthorised occupant, within the meaning of the said Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupant lies as provided under the said Act. Further, we have taken note that, ^{while} proceeding on such a guideline, this Tribunal on an earlier occasion by an order dated, 17th April, 1996, passed in O.A No.1029 of 1995, took a view that the Railway respondents instead of making deduction from the salary ought to have approached the forum of Estate Officer in the matter of realisation of penal and damage rent.

7. Thus, even confining ourselves only to the objection raised with regard to the mode of realisation of the damage rent, we find no alternative than to accept the contention raised on behalf of the applicant and, accordingly, this O.A. must succeed.



8. In the result, this O.A. is allowed to the extent that the Railway respondents were not entitled to make any deduction from the applicant's salary instead,

they should have moved for the realisation of the damage rent as per provisions contained in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The respondents are, accordingly, directed to refund the recovery already made from the applicant's salary with liberty to proceed in terms of the provision of Public Premises (Eviction of Unauthorised Occupants) Act, 1971. There shall be, however, no order as to costs.

Colp
28.6.01.

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(L.R.K. PRASAD)
MEMBER(A)

S. Narayan
28/6/01
(S. NARAYAN)
VICE-CHAIRMAN