

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.1331 of 1996

Present : Hon'ble Mr. S. Biswas, Administrative Member
Hon'ble Mr. A. Sathath Khan, Judicial Member

Ganesh Chandra Singh, S/o late Sripati
Lal Singh working as High Skilled Fitter
Gr.II, EMU Car Shed, Tikiapara under
Divl Rly. Manager, S.E. Rly., Kharagpur
residing at Rly. Qrs. No.A/3, Unit No.9,
Tikiapara P.O. & Dist. Howrah

.... Applicant

VS

1. General Manager, S.E. Railway, GRC.,
Calcutta-43

2. Divisional Rly. Manager, S.E. Rly.,
Kharagpur,

3. Sr. Divl. Elect.Engineer/TRS/
Tikliapara, Howrah

4. Asstt.Elect. Engineer, TRS, S.E. Rly.,
Tikiapara, Howrah

5. Union of India, service through
General Manager, S.E. Rly., Garden Reach,
Calcutta-43

... Respondents

For the Applicant : Mr. B.C. Sinha, counsel
Mr. P.K. Ghosh, counsel

For the Respondents : Mr.B.P. Roy, counsel

: : Date of order : 09-01-2003

O R D E R

A. Sathath Khan, JM

The above OA is directed against the action of the respondents in recovering Rs.549/- per month from the salary of the applicant without any notice or intimation and as a consequence the applicant prays for a direction to refund the recovery already made with interest.

2. The respondents in their reply have contended that the applicant was proceeded against for unauthorised occupation of Railway quarters and ultimately punishment of reduction of pay was imposed on him and his appeal against the said penalty has

already been dismissed. The respondents further contend that since the applicant was occupying the Railway quarter No.A3, Unit 5, Tikiapara from 1.9.88 unauthorisedly ^{her} ~~and hence~~ penal rent of Rs.549/- was recovered from the salary of the applicant from May, 1991 and that no amount is outstanding in respect of arrears of penal rent. Under these circumstances, the respondents contend that the imposition of penal rent is in order and there are no merits in the case of the applicant.

3. Heard both the learned counsel for the applicant and the respondents and considered all the ^{pleadings by} ~~documents~~ and records made available to us.

4. The short point for consideration in this case is whether the imposition of penal rent against the applicant is legally sustainable. It is not in dispute that the occupation of the quarter by the applicant from 1.9.88 was unauthorised, but the only point is whether the respondents have passed the order imposing penal rent after giving sufficient opportunity to the applicant to make his objection for the same. It is not disputed by the learned counsel for the respondents that the order imposing penal rent was passed without any showcause notice to the applicant. It is settled law that no adverse order can be passed against anybody having civil consequences without giving him an opportunity of being heard. (Please see AIR 1965 SC 1767, AIR 1967 SC 1269, AIR 1991 SC 1117). In the present case, no such opportunity was given to the applicant before directing recovery of penal rent. Hence, we hold that the action of the respondents in recovering penal rent from the applicant is illegal. However, we find that the recovery of penal rent has been completed by the respondents and no further penal rent is payable by the applicant.

5. In view of our finding that the action of the respondents in recovering the penal rent is illegal, we direct the applicant to make a representation explaining the reasons for not imposing

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the penal rent for the quarter in question within a period of one month from the date of receipt of this order and the respondents are directed to decide whether the imposition and recovery of penal rent was justified or not ~~after giving an opportunity to~~

~~the applicant to make his submission~~ within a period of three months from the date of receipt of the representation of the applicant. In case it is found that the imposition of penal rent was not justified, the respondents shall refund the amount recovered from the applicant by way of penal rent. The case is disposed of accordingly without any order as to costs.



(A. Sathath Khan)

MEMBER (J)



(S. Biswas)

MEMBER (A)