

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 125 of 1996

Thursday, this the 10th day of April, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. M. Ramachandran Nair,  
S/o Kunjiraman Nair,  
working as Chief Permanent Way  
Inspector, Southern Railway,  
Mangalore.  
Residing at: Railway Quarters No.MAQ 23,  
Railway Colony, Mangalore.  
.. Applicant

By Advocate Mr. TC Govindaswamy

Versus

1. Union of India represented by the  
Secretary to the Government of India,  
Ministry of Railways,  
Rail Bhavan, New Delhi.
2. The General Manager,  
Southern Railway,  
Headquarters Office,  
Park Town PO, Madras-3
3. The Chief Personnel Officer,  
Southern Railway,  
Headquarters Office,  
Park Town PO, Madras-3
4. The Divisional Railway Manager,  
Southern Railway,  
Palghat Division, Palghat.
5. The Divisional Personnel Officer,  
Southern Railway,  
Palghat Division, Palghat.  
.. Respondents

By Advocate Mr. KV Sachidanandan (represented)

The application having been heard on 10-4-1997, the  
Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to declare that the deduction  
of 'damages' from his salary for occupation of the  
Railway Quarters No.107/CLT for the period from 15-7-1990

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to 31-8-1991 is arbitrary, discriminatory and illegal, and to direct the respondents to return the alleged 'damages' deducted from his salary for occupation of the Railway Quarters.

2. The applicant is at present working as Chief Permanent Way Inspector at Mangalore Railway Station of Palghat Division. He is aggrieved by the action of the respondents in deducting an amount of over Rs.16335/- as 'damages' from his salary. Deduction at the rate of Rs.500/- p.m. as 'damages' is now deducted from his monthly salary. He was in occupation of Railway Quarters No.107/CLT while he was working as Chief Permanent Way Inspector at Quilandy. It was with effect from 7-6-1988. While so, he was transferred and posted as Chief Permanent Way Inspector, Mangalore and he joined at Mangalore on 14-5-1990. Due to the domestic problems of the applicant, he was unable to vacate the quarters allotted to him. Though representations were made for his continuance in the quarters, no reply was given by the respondents.

3. The respondents say that since the applicant is an unauthorised occupant, the deduction of damage rent as per rules is not discriminatory, arbitrary or illegal. The rate of damage rent has been fixed by the Railway Board and revised from time to time.

4. Learned counsel appearing for the applicant submitted that no notice of the proposed recovery of 'damages' from the applicant's salary was given to him

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and therefore, the action of the respondents in deducting at the rate of Rs.500/- per month from his salary as damage rent is violative of natural justice. Learned counsel for the respondents submitted that from the pleadings in the OA it is seen that the applicant was aware of the fact that the respondents were taking steps to deduct the damage rent from his salary and therefore, the contention that there is violation of natural justice cannot be accepted.

5. There is no dispute that there is no notice was given by the respondents to the applicant to show cause why the ~~proposed~~ deduction should not be made. Learned counsel for the respondents drew my attention to P. Jayanandan Vs. Chief Engineer & Another (OA 16/94) decided by the Bangalore Bench of this Tribunal wherein it has been held that no show cause notice is necessary in a case like this. In P.K. Gangadharan Vs. Union of India & Others ((1997) 35 ATC 107), it has been held by this Bench of the Tribunal that there cannot be a pre-judging of the case and a show cause notice is necessary.

6. According to the applicant, he has submitted A-4 representation before the 4th respondent to which there was no response. Respondents would say that A-4 representation was not received by the 4th respondent.

7. Learned counsel appearing for the applicant submitted that the applicant may be permitted to make a detailed representation before the 4th respondent, setting out in detail all the factual and legal aspects

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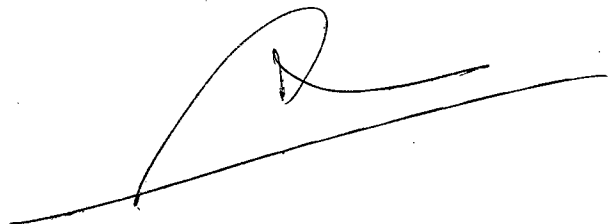


on which he is relying on, for redressal of his grievance and it is not necessary to enter into the merits of the OA. Learned counsel appearing for the respondents has submitted that there is no objection for permitting the applicant to make a detailed representation.

8. Accordingly, the applicant is permitted to make a detailed representation, setting out in detail the factual and legal aspects he relying on, to the 4th respondent through proper channel within three weeks from today. If such a representation is received, the 4th respondent shall consider the same and dispose of by a speaking order within two months from the date of receipt of the same.

9. Application is disposed of as aforesaid. No costs.

Dated the 10th of April, 1997

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line.

A.M. SIVADAS  
JUDICIAL MEMBER

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List of Annexures

1. Annexure-A4: A true copy of the representation dt. 5.1.95 submitted by the applicant to the fourth respondent.