

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No.....283..... of 1997.

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DATE OF DECISION.....1-2-2000.....

Md. Khamir Ali

PETITIONER(S)

None present for the applicant

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri A. Deb Roy, Sr .C.G.S.C.

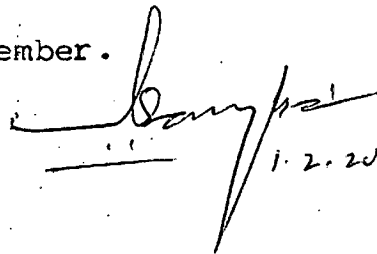
ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE MR G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


1.2.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 283 of 1997.

Date of Order : * This the 1st day of February, 2000.

The Hon'ble Mr Justice D.N.Baruah, Vice-Chairman.

The Hon'ble Mr G.L.Sanglyine, Administrative Member.

Md. Khamir Ali,
Telegraph Operating Assistant,
Office of the Chief Superintendent,
Central Telegraph Office,
Panbazar, Guwahati-1. . . . Applicant.

None present for the applicant.

- Versus -

1. Union of India,
represented by the Chief General Manager,
Telecom Assam Circle,
Ulubari, Guwahati-7.
2. The General Manager, Telecom.,
Kamrup District, S.R.Bora Lane,
Guwahati-7.
3. Divisional Engineer,
Central Telegraph Office,
Panbazar, Guwahati-1. . . . Respondents.

By Advocate Sri A. Deb Roy, Sr.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMN.MEMBER,

This application was submitted by the applicant seeking a direction to set aside and quash the order of the respondents directing deduction of damage charge at the rate of Rs.3327/- p.m. from him.

2. The applicant is working as Telegraph Operating Assistant in the office of the Chief Superintendent, Central Telegraph Office, Panbazar, Guwahati. He occupied the quarter No.11-49 situated at Upper Strand Road, Panbazar. This quarter belonged to the Postal department. The applicant made request for regularisation of the occupation of the quarter. However, the respondents did not regularise the occupation and took action against the applicant including deduction of penal

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rent. Notice under Section 4(1) of the Un-authorized Occupation of Public Premises Act, 1971 was served on the applicant on 30.11.1992 by the Estate Officer, Telecom Department. The applicant filed a Title Suit No.157/93 in the Court of the Munsiff at Guwahati and also Misc.Case No.Misc.(J) 70/93. Injunction was granted in favour of the applicant. The respondent filed a Revision Petition before the Hon'ble Gauhati High Court in Civil Revision No.167/94. The Hon'ble High Court by order dated 14.7.1995 allow the Revision and directed the Munsiff to re-consider the question of maintainability of the Suit. The learned Munsiff held that the Suit was not maintainable. Thereupon the applicant filed an appeal in the Court of the Civil Judge (Senior Division), Guwahati being T.A.15/96. According to the applicant there was another Civil Revision filed before the Hon'ble High Court on the same point in Civil Revision No.166/94 filed by the respondents. The Hon'ble High Court had dismissed the Revision as not maintainable. The applicant states that he reliably learnt that against the aforesaid order of the Hon'ble High Court the respondents had filed a SLP in the Hon'ble Supreme Court of India and the result of which is not known to the applicant. The Title Appeal No.15/96 mentioned above was dismissed by the Civil Judge (Senior Division), Guwahati on 25.9.1997. Thereafter, the respondents issued a letter No.B-2/BLDG/KA/Unauthorised/03 dated 21.10.1997 directing deduction of penal rent of Rs.3,327/-per month from the salary of the applicant with effect from October, 1997. The applicant states that in 1991 the damage rent was fixed at Rs.500/- in addition to Licence fee of Rs.100/- per month. Thereafter, in 1995 the damage rent was ordered to be recovered at Rs.1628/-p.m. The present increase of Rs.3,327/- is not permissible under the rules and law. The SLP before the Hon'ble Supreme Court of


India is pending. The department cannot enhance the deduction of damage charge abruptly without any reason.

3. The respondents have not submitted written statement.

4. Hearing of the application was fixed. Neither the applicant nor his counsel was present. Mr A. Deb Roy, learned Sr.C.G.S.C was present for the respondents. We have heard him. The facts available before us are inadequate to dispose of the O.A. on merit. We therefore, dispose of this application with a direction to the respondents to consider the matter afresh. The applicant may also submit fresh representation to the respondents regarding the matter of recovery of the damage rent within 1 month from the date of receipt of this order. The respondents shall communicate a speaking order to the applicant within 3 months from the date of receipt of this order. Till disposal of the fresh representation the respondents shall keep in abeyance the effect of the order dated 21.10.1997.

The application is disposed of. No order as to costs.


(D.N.BARUAH)
VICE CHAIRMAN


(G.L.SANGLINE)
ADMINISTRATIVE MEMBER