



O.A. 350/01404/2014

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, KOLKATA

O.A. NO. 350/01404/2014

Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member

Kishori Mohan Ghorai,  
Son of Late Babulal Ghorai,  
Aged about 55 years,  
Working as Sr. C.C. under the  
SMR/MCA/S.E. Rly.,  
Residing at Vill. & P.O. Madpur,  
Dist. Paschim Medinipur – 721 149.

..... Applicant

-Versus-

1. Union of India,  
Through the General Manager,  
S.E. Rly., Garden Reach,  
Kolkata – 700 043.
2. Sr. Divisional Personnel Officer,  
S.E. Rly., Kharagpur,  
P.O. Kharagpur,  
Dist. Paschim Medinipur – 721 301.
3. Sr. Divisional Commercial Manager,  
S.E. Rly., Kharagpur,  
P.O. Kharagpur,  
Dist. Paschim Medinipur 721 301.
4. Sr. Section Engineer (Works)Line/KGP,  
S.E. Rly., P.O. Kharagpur,  
Dist. Paschim Medinipur – 721 301.

..... Respondents.

For the applicant : Mr. A. Chakraborty, Counsel

For the respondents : Mr. B.L. Gangopadhyay, Counsel

Heard on 28.06.2018

Order dated: 17 .07.2018

ORDER

Per Bidisha Banerjee, Judicial Member

This O.A. has been filed in order to seek the following reliefs:

"8.(a) Office Order dated 26.06.2012 cannot be tenable in the eye of law and as such the same may be quashed.

(b) An order do issue directing the respondents to extend the benefit of circular dated 17.12.83 in forum of the petitioner."

2. The order impugned in the O.A. reads as under:

"To  
Shri Kishori Mohan Ghorai, Sr. CC/DZK

Sub: Recovery of penal rent amounting to Rs. 370437/-  
Period from 29.05.08 to 29.09.2010

Ref: Sr. DCM/KGP's letter dt. 19.03.2012

In response to the Sr. DCM/KGP's letter dated 19.03.2012 penal tent for unauthorized occupation of railway quarter at Durgachok, period from 29.05.08 to 29.09.10 an amounting Rs. 370437/- to be recovered from your salary and settlement dues. Hence out of Rs. 370437/- an amount Rs. 336600/- will be recovered from your salary in 102 installment @ Rs. 3300/- per month from June' 12 and onwards. 'Remaining Rs. 33837/- will be recovered from your settlement dues."

3. The order supra seems to be an offshoot of Sr. DCM's letter dated 19.3.12

(Annexure 'A'-1) which is extracted hereinbelow for clarity:

"To  
The Sr. DPO (Comml. Bill)  
South Eastern Railway  
Kharagpur.

Sub:- Recovery of Penal rent @ 88/- per Sq. Mtr for unauthorized occupation of Railway Qr. by Sri Kishori Mohan Ghorai/ Sr. CC/DZK, measuring 150 sq.ft. at DZK, period from 29-05-2008 to 29-09-2010.

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Sri K.M. Ghorai Sr. CC/DZK had unauthorizedly occupied the Qr. measuring 150 Sq.ft. at DZK.

However, for unauthorized retention of Qr. at DZK by Sri K.M. Ghorai Sr. CC. Competent authority has passed order for recovery of Penal rent @ 88/- per Sq. Mtr for unauthorized occupation railway Qr. by Sri Kishori Mohan Ghorai/ Sr. CC/DZK, measuring 150 sq.ft. at DZK, period from 29-09-2008 to 29-09-2010 from the salary bill of Sri K.M. Ghorai Sr. CC/DZK.

This is for your kind information and necessary action please.

Sd/-  
fr Sr. Divl. Comml. Manager  
Kharagpur."

4. At hearing the respondents were directed to show under what provision the damage reset was assessed by the Sr. DCM, without taking recourse to THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971(PP Act in short).

Ld. Counsel Shri B.L. Gangopadhyay, in his efforts to defend the administration, would produce a circular whereby the rates of damage rent was revised. However no authority was provided to the railway officers to straightaway, without any enquiry or proceedings under PP Act or ever a show cause, recover money from salary in the garb of exercise of administrative power, to realise damage rent. Therefore, such exercise was bad in law.

5. In the aforesaid backdrop the impugned orders supra are quashed. The respondents are directed to refund the recovered amount, with liberty to act in accordance with law.

6. O.A. is thus disposed of. No costs.

(Bidisha Banerjee)  
Judicial Member