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by which he was appointed. That being so, the dismissal of Mohan Singh by the Divisional Personnel Officer contravenes the provisions of Article 311(1) of the Constitution and is, therefore, invalid.

The result is that this petition succeeds. Accordingly I hold that the dismissal of Mohan Singh on the 30th of May, 1956, was illegal and of no effect and he shall be deemed to continue in service. The petitioner is entitled to have his costs from the respondents. Counsel's fee Rs. 100.

CIVIL WRIT

Before Khosla, J.

THE BRITISH INDIA CORPORATION LIMITED,—
Petitioner

versus

THE EXCISE AND TAXATION COMMISSIONER, PUNJAB AND STATE OF PUNJAB,—*Respondents.*

Civil Writ Application No. 323 of 1956.

1957

May, 17th

Punjab Urban Immovable Property Tax Act (XVII of 1940)—Section 4(1)(g) and Rule 18 of the Rules framed under the Act—Rent-free quarters allotted to workmen of a factory on payment of conservancy and repair charges—Conservancy and repair charges, whether rent within the meaning of rule 18 of the Act—Clubs of a factory—Whether can be regarded as premises used for the purpose of the factory.

Held, that where the premises are rent-free and there is no relationship of landlord and tenant it cannot be said that the payment made by the occupier is rent. The amount paid by a licensee for the use and occupation of the premises would not strictly speaking be rent, because rent is consideration paid in lieu of demise of the premises occupied. Some interest in the property must pass to the occupier before he can be said to be a tenant, and before the payment which he makes can be called rent. The amount which is levied from the workmen on account of the expenses of conservancy and repairs is not rent within the meaning of rule 18(ii).

Held further, that the purpose of the factory must not be interpreted in the narrow sense of restricting it to the production and sale of the commodities produced by the factory. It must be given a slightly extended meaning. It is clear that the legislature intended to do so, because in rule 18 no exemption is to be given for bungalows or houses intended for or occupied by the managerial or superior staff. If these bungalows were not buildings which were being used for the purpose of the factory, there would have been no need to enumerate them under clause (iii) of rule 18. Clubs provide amenities and certain amount of amusement which makes the workmen more contended and consequently better worker. A contended workman produces more, and if that be so then a club is clearly a building which is used for the purpose of the factory. Therefore, clubs are buildings which are exempt from immovable property tax.

Karnani Properties, Ltd. v. *Miss Augustine and others* (1), and *Syamlal Mandal* v. *The Municipal Board of Dhubrai* (2).

Petition under Articles 226 and 227 of the Constitution of India, praying that a Writ in the nature of Certiorari be issued quashing the order of respondent No. 1, passsed on 7th April, 1956, in Revision Petition No. 62, of 1954-55 and on 23rd June, 1956, in Revision Petition No. 42 of 1955-56 and further praying that respondents may be restrained from realizing the Property Tax, imposed on the properties pending the decision of this petition.

BHAGIRATH DASS, for Petitioner.

S. M. SIKRI, Advocate-General, for Respondents.

JUDGMENT

KHOSLA, J.—This is a petition under Article 226 of the Constitution by which the petitioner-company challenges certain orders made under the Punjab Urban Immovable Property Tax Act. Khosla, J.

The petitioner-company own a factory in Dhariwal. Among the properties owned by the Company

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(2) A.I.R. 1951 Cal. 126

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are a number of quarters which are allotted to workmen working in the factory. The terms upon which these quarters are allotted briefly are that no rent is leviable from the occupants, they are not to be treated as tenants and they must pay a small amount on account of the expenses of conservancy and repairs. There are also three buildings which are used as the mill employees club, the Gurkha Guards Club and the mill Officers Club. The petitioner's contention is that these properties are exempted from property-tax under section 4(1)(g) of the Urban Immovable Property-tax Act read with rule 18 of the rules framed under this Act. It is interesting to note, although the point is not of any great significance, that the two orders challenged are both by the same officer, Shri J. S. Basur. The first order was passed by him on 7th April, 1956 as Excise and Taxation Commissioner on a revision petition being filed before him by the petitioner-company. The second order was also passed by him on 23rd June, 1956, acting *suo moto*. This modified his previous order in some respects. The point for my consideration, however, is whether (a) the quarters and (b) the club premises are exempt from the Property-tax Act.....according to law and whether the Excise and Taxation Commissioner took so wholly a wrong view of law that this Court should interfere under the extraordinary powers contemplated by Article 226 of the Constitution.

Section 4(1) (g) is in the following terms:—

"4. (1) The tax shall not be leviable in respect of the following properties, namely:—

* * * * * *

(g) such buildings and lands used for the purpose of a factory as may be prescribed."

Rule 18 of the rules framed under this Act is in the following terms:—

"18. *Factory*.—Under the provisions of clause (g) of sub-section (1) of section 4 of the Act all buildings and lands used for the purpose of a factory wherein 20 or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process is being carried on with the aid of power shall be exempt from the tax:—

(i) godowns outside the factory compound;

(ii) Godowns, shops, shops quarters or other buildings whether situated within or without the factory compound for which rent is charged either from employee of the factory or from other persons; and

(iii) bungalows or houses intended for or occupied by, the managerial or superior staff whether situated within or without the factory compound; shall not be exempt."

The contention of the petitioner is that as far as the workmen's quarters are concerned they are premises which are being used for the purpose of the factory and in respect of which no rent is being charged. The argument with regard to the club premises is that these, too, are being used for the purpose of the factory and for these premises also no rent is being charged.

There is very little doubt that living quarters intended for the use of workmen are buildings which

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are being used for the purpose of the factory, and with regard to this part of the petitioner's case the only point requiring my consideration is whether any rent is being paid.

The view taken by the Excise and Taxation Commissioner is that since the workmen pay a small amount on account of the expenses of conservancy and repairs, this charge is equivalent to rent. The expression "rent" has not been defined in the Punjab Urban Immovable Property-Tax Act and so its ordinary dictionary meaning was taken by him. The dictionary meaning is somewhat wider and according to Webster's Dictionary any payment made by the occupant of the premises may be called rent. But in a statute where urban property is taxed and the basis of the tax is the rent payable by the occupant or the tenant, it seems to me that the word "rent" must be construed in the restricted legal sense as payment made by a tenant to his landlord. Therefore, there must exist a relationship of landlord, and tenant between the parties before the payment received by one and made by the other can fall within the definition of rent. In the present case each occupant of the allotted quarter is told in unequivocal terms that he is being given his residential quarter free of rent. It has been recently held by this Court that a person occupying workman's quarter is not a tenant and that when he ceases to be a workman and continues to live in it he becomes a trespasser (*vide Janak Raj* v. *The State, Criminal Revision No. 245 of 1955*). A small charge is levied for incidental expenses incurred by the company but this is clearly not rent.

My attention was drawn to the decision of the Supreme Court in *Karnani Properties Ltd.*, v. *Miss Augustine and others* (1), and to a decision of the

(1) A.I.R. 1957 S.C. 309.

Calcutta High Court in *Syamlal Mandal* v. *The Municipal Boadd of Dhubri* (1). In these cases it was held that whatever payment is made by a tenant to the landlord for the use of the premises is covered by the term "rent". But in both these cases the existence of the relationship of landlord and tenant between the parties was assumed, and it is clear that this relationship is a pre-requisite of the notion of rent. Where the premises are rent-free and there is no relationship of landlord and tenant it cannot be said that the payment made by the occupier is rent. The amount paid by a licensee for the use and occupation of the premises would not strictly speaking be rent, because rent is consideration paid in lieu of demise of the premises occupied. Some interest in the property must pass to the occupier before he can be said to be a tenant, and before the payment which he makes can be called rent. I, therefore, hold that the amount which is levied from the workmen on account of the expenses of conservancy and repairs is not rent within the meaning of rule 18(ii). These premises are, therefore, exempt from rent.

With regard to the three clubs no rent is being charged in respect of them, but the argument raised on behalf of the State is that they are not premises which are being used for the purpose of the factory. The question, therefore, arises whether amenities provided for the use and amusement of the workmen and officers of a factory can be said to be the purpose of the factory. The purpose of the factory, in my view, must not be interpretted in the narrow sense of restricting it to the production and sale of the commodities produced by the factory. It must be given a slightly extended meaning. It is clear that the Legislature intended to do so, because in rule 18 no exemption is to be given for bungalows or houses intended for or occupied by the managerial or

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superior staff. If these bungalows were not buildings which were being used for the purpose of the factory, there would have been no need to enumerate them under clause (iii) of rule 18. It was assumed that such buildings are used for the purpose of the factory but they were specially made liable to tax even though the officers may not be paying any rent for them. A hospital or a dispensary provided for the benefit of the workmen would, in my opinion, be a building used for the purpose of the factory, because the hospital is intended to maintain the workmen in a condition fit for work. In the same way a club provides them amenities and a certain amount of amusement which makes the workmen more contended and consequently better workers. In the rapidly changing world of today and the modern conception of a Welfare State there is an ever increasing emphasis on treating the lower strata of society on a par with the more affluent sections of it. Factory owners are compelled by modern laws to provide certain amenities, such as provident fund, insurance etc., to the workmen and the provision of a club cannot be said to be an unnecessary luxury. There can be no two opinions about the fact that a club of the type provided by the petitioner company does help to make the workman more contented. A contented workman produces more, and if that be so, then a club is clearly a building which is used for the purpose of the factory.

I am, therefore, of the opinion that the clubs are buildings which are exempt from the immovable property tax. The Excise and Taxation Commissioner took an erroneous view of the law relating to the matter and, I, therefore, allow this petition and quash the orders by which the workmen's quarters and the three clubs have been assessed to property tax. The petitiones will also recover costs of this petition which I assess at Rs. 100.