

V (8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH.

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Original Application No. 61 of 1986 .

Date of decision : November 24, 1986.

Hari Singh

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Petitioner

Versus

Union of India and others

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Respondents.

For Petitioner : M/s R.C. Ram, B.K. Patnaik  
and B. Sahoo, Advocates.

For Respondents : Mr. L. Mohapatra,  
Advocate.

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C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER ( JUDICIAL)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes .
  2. To be referred to the Reporters or not ?
  3. Whether their Lordships wish to see the fair copy of the judgment ?
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VI

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J U D G M E N T

K.P. ACHARYA, MEMBER (J), This is an application under section 19 of the Administrative Tribunals Act, 1985 praying therein to quash the order of removal passed against the petitioner forming subject-matter of Annexure-3.

2. Succinctly stated , the case of the petitioner is that he was attached to the post of Stationary Plant Attendant and was posted at Jharsuguda . He was in occupation of Qrs.No. CW 5/B, Type A and this was allotted to him after Sri Shyam Dhar had vacated the said quarters . The order of allotment is to be found in Annexure-1 . Since the petitioner is alleged to have forcibly occupied the quarters and did not vacate despite directions given by his concerned authority , the petitioner has been put under proceedings and having been found guilty by the Inquiry Officer and such findings having been accepted by the disciplinary authority, the petitioner has been ordered to be removed from service. Being aggrieved by this order , the petitioner has filed the application which is under consideration by this Bench .

3. In their counter , the respondents-O.Ps. maintained that since the occupation of the quarter in question by the petitioner was without any authority and <sup>he</sup> had forcibly occupied the quarters and further more having dis-obeyed the direction of the concerned authority , the petitioner was rightly proceeded <sup>against</sup> and there being no violation of the principles of natural <sup>law</sup>

justice during the inquiry , this Bench should not lay its hands for interference and therefore the orders passed by the disciplinary authority should be up-held .

4. We have heard Mr. R.C.Ram, learned counsel for the petitioner and Mr. L.Mohapatra, learned counsel for the Railway Department at some length. It was contended by Mr. Mohapatra that under Annexure-1 no quarters had been allotted to the petitioner and the petitioner had forcibly entered into the quarters without any authority and therefore, he was liable for facing a departmental inquiry . According to Mr Mohapatra, the petitioner has been rightly found guilty of misconduct and therefore the punishment should be up-held. After hearing Mr. R.C.Ram and Mr. Mohapatra, we find that there is no force in the contention of Mr. Mohapatra because under Annexure-1, it is said that the quarters in question is allotted to Sri Hari Singh. The words " is allotted " means it has actually been allotted and authority has been granted to the petitioner to occupy the quarters . It was contended by Mr. Mohapatra that the Quarters Committee had decided that certain quarters are to be allotted to certain employees and this does not amount to actual allotment of the quarter. We are unable to accept this contention of Mr. Mohapatra because the words " it is decided by the Quarters Committee " pertains to the quarter mentioned against item No.1 of Annexure-1. No such word has been employed so far as item No.2 is concerned .

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VIII

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On the contrary, against the name of the petitioner -item No.2 it is specifically mentioned "quarter is allotted ". This makes a lot of difference and in view of the fact that there is difference in the language employed against Item Nos.1 and 2, we unhesitatingly hold that the quarter in question has been allotted to the petitioner. Conceding for the sake of argument that the petitioner had not obeyed the directions of the concerned authorities to vacate the quarter, we feel that the sentence imposed is unduly severe and deterrent. In our opinion, it is against all cannons of justice, equity and fair play.

5. In the circumstances stated above, we find no illegality to have been committed by the petitioner and his removal from service is unwarranted. Therefore, we would hold that the petitioner is not guilty of the charges and he is exonerated of the charges and the petitioner be reinstated forthwith with effect from the date he was removed from service with all service benefits and all his emoluments to which he is entitled, be paid to the petitioner within three months from the date of receipt of a copy of the judgment.

6. Thus, the application stands allowed leaving the parties to bear their own costs.

*h. a. Roy*  
24.11.86  
.....  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

*g agree*

*B. R. Patel*  
24.11.86  
.....  
Vice-Chairman

Central Administrative Tribunal  
Cuttack Bench : Cuttack.  
November 24, 1986/Roy.