

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 187 OF 1987.

DATE OF DECISION : July 30, 1987.

Aswini Kumar Debdas ... Applicant.

Versus

Union of India and others ... Respondents.

For Applicant : M/s. Dr. S. C. Dash, B. K. Patnaik,
R. Ch. Rout, Advocates.

For Respondent: **Mr. A. B. Mishra, Senior Standing
Counsel (Central)**

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.)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? ~~No~~ .
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order of eviction passed against him in respect of the quarters which is in his possession and prays in this application to quash the order of eviction.

2. Shortly stated, the case of the applicant is that his deceased father was an employee of the Postal Department. After the death of his father an application was made to the Postal authorities to take compassionate view on the applicant and appoint him to a post as he is the son of the deceased employee. The competent authority took a compassionate view and appointed the applicant as Postman and the applicant has been attached to the ^{Bhoi Nagar} Post Office at Bhubaneswar. While in service the applicant's father had been allotted with a quarter bearing No. 5, Type I Vani Vihar Colony and after the death of the father of the applicant, the applicant and his widow mother, brothers and sisters continued in occupation of the said quarters. After the applicant was appointed the competent authority gave notice to the applicant to vacate the quarters as it was held that the applicant was in unauthorised occupation of the said quarters. Representations were made by the applicant but the same was turned down by the competent authority on the ground that there were other people waiting to get the quarters. Hence, the Assistant Post Master General passed ^{an} order directing eviction of the applicant from the said quarters. The matter was carried in appeal to the Court of the District Judge, Puri and the

learned District Judge, Puri dismissed the appeal bearing no. Misc. Appeal 69 of 1986. Being aggrieved by the said order of dismissal of the appeal the applicant has invoked the jurisdiction of this Bench for interference.

3. We have already indicated in our order-sheet that we did not wait for filing of counter because the matter is so simple and the facts are undisputed.

4. We have heard Dr. S. C. Dash, learned counsel for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) on this question. After hearing learned counsel for both sides, we are of opinion that just because the competent authority has taken a compassionate view in the matter of appointment of the applicant after the death of his father, legally the applicant has no right to claim occupation of the quarter. Apart from this, looking at the interest of the applicant that he has a widow mother, brothers and sisters, we have a duty to look to the interest of other employees who are in the waiting list. We cannot cause prejudice to the interest of other employees even though one may take a compassionate view in regard to the difficulties of the applicant and his widow mother.

5. While taking into consideration the interest of other employees who are on the waiting list we also feel that it would be inappropriate, unjust and improper to immediately throw out the applicant with his widow mother, brothers and sisters to the open street. It would take some time for the applicant to find out a suitable accommodation keeping in view his limited

financial resources and the paltry amount which he would be drawing as his monthly salary. Therefore, just and proper course would be to allow some time to the applicant to find out a suitable accommodation as early as possible and vacate the quarter in question.

6. In conclusion, we would direct that the applicant be allowed to remain in occupation of the quarter in question till 15th October, 1987 and he is directed to positively vacate the quarter in question in the afternoon of 15th October, 1987, failing which the competent authority would be at liberty to get the applicant evicted from the quarter according to law.

It was vehemently urged by Dr. Dash, learned counsel for the applicant to quash the order passed under Annexure-1 imposing penal rent over the applicant for his unauthorised occupation. Imposition of penal rent is according to rules and it is the discretion of the competent authority to impose penal rent with which we would not like to interfere because the discretion of the authority cannot be transgressed by us unless and until it is arbitrary. Therefore, we would not like to interfere with that order. Dr. Dash submitted that the applicant would file an application before the competent authority to recall the penal rent imposed on the applicant and we have no objection, if the Post Master General uses his discretion in favour of the applicant. Since by order of this Bench, the applicant has been allowed to continue in the quarter in question till 15th October, 1987, the competent authority would be well advised not to impose penal rent from to-day till 15th October,

1987.

7. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

legally done
30.7.87
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Mr. Patel
30.7.87
Vice-Chairman



Central Administrative Tribunal,
Cuttack Bench, Cuttack
July 30, 1987/S. Sarangi.