

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

(S)

ORIGINAL APPLICATION No. 373 OF 1987.

Date of decision ... April 28, 1988.

Sri R.C.Mohapatra, son of late Dasarathi Mohapatra,
H.S.G.-I, Postmaster, At/P.O- Bhadrak H.O.Dist- Balasore.

... Applicant.

Versus

1. Union of India, represented by the Postmaster General, Orissa Circle, Bhubaneswar, Dist- Puri.
2. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, Dist- Puri.
3. Superintendent of Post Offices, Bhadrak Division, Bhadrak, Dist- Balasore.

... Respondents.

M/s P.V.Ramdas & B.K.Panda,
Advocates. ... For Applicant.

Mr. T.Dalai, Addl. Standing
Counsel (Central) ... For Respondents.

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 permitted 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 .

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JUDGMENT

K.P.ACHARYA, MEMBER (J), The petitioner is Post Master, H.S.G.-I posted at Bhadrak . Before his transfer to Bhadrak the petitioner was working in the Office of the Post Master General, Orissa Circle, Bhubaneswar . He was allotted with Qrs. No.95-2RB -Rd. I within Unit IX and he was in occupation of the said quarters . This particular quarters belongs to Orissa Government and had been placed at the disposal of the Post Master General, Orissa Circle, Bhubaneswar for allotment to ~~his~~ officials . In these circumstances , the petitioner was allotted with the quarters mentioned above and he continued in the said quarters, even when he was posted at Bhadrak . The allotment of the quarters was cancelled on 7.5.1987 and vide order dated 13.11.1987 contained in Annexure- 4 penal rent at the rate of 40 % of the pay of the petitioner has been imposed on the petitioner with effect from 1.6.1982. Being aggrieved by this order , the petitioner has invoked the jurisdiction of this Bench for interference .

2. In their counter , the respondents maintained that soon after the petitioner was transferred from Bhubaneswar and after expiry of the limited period authorising the petitioner to occupy the quarters on transfer having expired it should be deemed that the allotment of the quarters has been cancelled and penal rent is leviable from such date. In the circumstances no illegality having been committed by the Opposite Parties, the application is devoid of merit and is liable to be dismissed.

3. we have heard Mr. P.V.Ramdas, learned counsel for the petitioner and Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government at some length.

Mr. Ramdas invited our attention to Annexure-2 which contains the order relating to cancellation of the allotment of quarters and this is dated 7.5.1987. In the said letter it is stated that since the quarters was not vacated by the petitioner by the order contained in Annexure-2, the allotment is hereby cancelled. Hence the cancellation order was effective from 7.5.1987. In such circumstances, the moot question that needs to be determined is the date from which the penal rent should be imposed. In this connection, Mr. Ramdas invited our attention to F.R. 45-A (iii) of Swamy's Compilation of F.R.S.R. Part I General Rules, which runs thus :

" Before recovery of enhanced licence fee under F.R. 45-A IV (c) (ii) (1) could be ordered, it would be necessary to cancel the allotment. In the absence of such cancellation of allotment, permission to retain the quarters will be presumed and recovery of enhanced licence fee would become irregular ".

This provision in conformity with the directions contained in Memo No. N.B. 42/35/51, dated the 2nd July 1952 issued by the Director General of Posts & Telegraphs. Therefore, we would hold that without cancellation of the allotment penal rent can not be imposed and it can be imposed only from the date of cancellation. Therefore, we would direct that the petitioner would be liable to pay penal rent at the rate of 40 % of his pay with effect from 7.5.1987 till he vacated the quarters. This order is subject to the condition that the petitioner would vacate the quarters by 30.5.1988 in accordance with the undertaking given to this Bench by the petitioner through his counsel that he would vacate the quarters in question by 30.5.1988. In case

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petitioner does not vacate the quarters on 30.5.1988, then this order shall not be effective and it would be deemed that the order already passed by the competent authority under challenge would be effective apart from proceeding for Contempt being initiated against the petitioner. The amount payable by the petitioner on the aforesaid basis shall be deducted from the gratuity payable to the petitioner, if not deposited voluntarily by the petitioner. We are told that a proceeding under the Public Premises Eviction Act has been initiated against the petitioner. Undoubtedly the proceeding would become infructuous when the petitioner vacates the quarters on 30.5.1988.

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

Leaving
28/4/88
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, *I agree*



28/4/88
Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench.
April 28, 1988/Roy, SPA.