

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

REVIEW APPLICATION NO. 51 OF 1987
(Arising out of O.A.No. 187 of 1987)

Date of decision ... October 14, 1987.

Aswini Kumar Deva Das,
son of late Purna Chandra Das,
aged about 25 years, at present
working as Group 'D', Bhoi nagar S.O.,
At/P.O-Bhubaneswar, Dist- Puri. ...
Applicant.

Versus

1. Union of India, represented by its Secretary, Indian Posts, Dak Bhawan, New Delhi.
 2. PostMaster General, Orissa Circle, Bhubaneswar, Town /P.O.Bhubaneswar, District- Puri.
 3. Senior Superintendent of Post Offices, Bhubaneswar Division, At/P.O.Bhubaneswar, District- Puri.

For Petitioner : M/s Devananda Misra, Deepak Misra,
S.S.Hota, R.N.Naik & Anil Deo, Advocates.

For Respondents : Mr. A.B.Misra, 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 Reporter 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 Review Application, it is urged on behalf of the applicant that according to the prevalent rules which was not placed before the Bench at the time of hearing of Original Application No. 187 of 1987, the applicant should not be deprived of the quarters which was occupied by his father.

2. Shortly stated, the case of the applicant is that after the death of his father, the applicant has been given a job on compassionate grounds. After having secured the job, the applicant wanted to continue in the quarters which was under occupation of his late father. The departmental authorities did not accede to the aforesaid request of the applicant and on the contrary, an eviction proceeding was launched against the applicant. Being aggrieved by this order of the departmental authorities, the applicant filed an application under section 19 of the Administrative Tribunals Act, 1985 praying therein to quash the proceeding for eviction and to command the respondents- Opp. Parties to allot the quarters in favour of the applicant which formed subject matter of O.A 187/87.

3. After hearing counsel for both sides on the merits of the case, this Bench passed a judgment on 30.7.1987 finding that there was no merit in the case, yet the applicant was permitted to occupy the quarters till 15.10.1987 and it was directed that the applicant should vacate the quarters in question by 15.10.87.

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The applicant has now come up with a review application praying therein to review the judgment passed in Original Application No. 187 of 1987 in view of the prevalent rules quoted in para 6 (d) of the application. From the rule quoted, it appears that "a request for allotment to an eligible dependent may also be considered in case the dependent gets an employment in an eligible office even after the death of the officer, provided such an appointment is secured within a period twelve months after the death of the officer xx xx". Basing on this rule, it was contended by Mr. Deepak Misra, learned counsel for the applicant that this rule not having been placed before this Bench at the time of hearing of O.A.No. 187 of 1987, this Bench should now re-consider the matter. We do not feel inclined to accept the aforesaid submission of the applicant because nothing was pointed out to us indicating the due diligence undertaken by the applicant to find out had not the document and the reason for which this document came into possession of the applicant at the time of hearing. The most important ingredient provided under Or. 43 Rule 1 of the Code of Civil Procedure not having been complied with, we do not think that the contention of Mr. Misra, learned counsel for the applicant can be accepted. That apart, the rule prescribes that the concerned person would be eligible to occupy the quarters after

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the death of the officer only if the appointment is within twelve months from the date of death of the officer on whose death the appointment is being given to his successor. In the present case, admittedly, the appointment has been given to the applicant fourteen months after the death of his father. Therefore, we have also grave doubts as to whether the rule would apply to the present applicant. In view of the aforesaid facts and circumstances, we find that the review application is not maintainable which stands dismissed leaving the parties to bear their own costs.

4. Lastly Mr. Misra, learned counsel for the applicant contended that his client had seriously hoped that the review application would be allowed in view of the rules cited in the application. Despite his earnest efforts to find out a suitable accommodation, the applicant has not been able to find out an accommodation and it was prayed by Mr. Misra for an extension of time for a small period. After hearing learned counsel for both sides, we feel inclined that this is a fit case in which some extension of time should be granted to the applicant. Hence we would direct that the applicant would vacate the quarters in question by 30th November, 1987.

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14/10/87*
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Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

I agree.

14.10.87
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Vice Chairman.

Central Administrative Tribunal
Cuttack Bench.
October 14, 1987/Roy SPA.