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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.283 of 1988

Date of decision : September 21,1988.

Shri Mahadeb Das, son of late M.C.Das,
aged about 46 years, Secretary, C.P.W.D.
Class IV Staff Union, Orissa Branch,
Bhubaneswar, Unit -8, Nayapalli,
Bhubaneswar-12, District- Puri. ...

Applicant.

Versus

Executive Engineer,
Bhubaneswar Central Division,
C.P.W.D., Unit-8, Nayapalli,
Bhubaneswar-12, District-Puri. ...

Respondent.

For the applicant ... M/s.S.Misra-1,
S.K.Nayak-2,
Mrs. R.Sikdar, Advocates.

For the 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)

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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 ? No
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.
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J U D G M E N T

K.P. ACHARYA, MEMBER (J)

The applicant is the Secretary of the association constituted by the regular Class IV employees of the Office of the Executive Engineer, Central Public Works Department stationed at Bhubaneswar. The applicant has come up before this Bench with an application under section 19 of the Administrative Tribunals Act, 1985, claiming that 4 quarters earmarked for Class IV employees should be allotted to the Class IV regular employees and no such quarters should be allotted to the work-charged employees. Accordingly, a direction is sought from this Bench.

2. In ^{their} ~~his~~ counter, the respondent maintained that the four quarters in question, as per the Rules are meant for allotment to all eligible staff of the Central Public Works Department stationed at Bhubaneswar including Class IV employees. Hence, the competent authority has been acting according to Rules and therefore, there being no merit in the application, it is liable to be dismissed.

3. We have heard Mr. S. Misra, learned counsel for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) at some length. We have also perused the pleadings of the parties and the relevant Rules on the subject. At the outset it may be stated that within Class IV employees there are two categories; namely, essential service employees and regular non-essential service employees. Further admitted case is 20 quarters have been earmarked for the essential service employees and 4 quarters are earmarked for members of

non-essential service employees. The only dispute presented before us is that the said 4 quarters are solely meant for the regular non-essential service employees whereas the stand taken on behalf of the respondent is that those four quarters are earmarked for non-essential staff which includes Class IV and work-charged employees. Mr. Misra-1, learned counsel for the applicant submitted before us that nowhere it could be found that any of the workcharged employees are entitled to any of the 4 quarters and to substantiate his contention, Mr. Misra-1 invited our attention to Annexures-1, 2 and 4 which are communications made between the Executive Engineer and his higher authorities namely, the Superintending Engineer who is said to have stated that those 4 quarters should be allotted to the regular Class IV non-essential employees. Hence, Mr. Misra-1 contended that on the basis of those communication the Executive Engineer should be directed to allot those 4 quarters only to the regular non-essential service employees (Class IV).

Mr. A. B. Mishra, learned Senior Standing Counsel (Central) opposed this submission of Mr. Misra-1, learned counsel for the applicant on the ground that those communication relate to ^athe ~~the~~ _e period prior to the enactment of the Rules in question which was also stiffly denied by Mr. Misra-1. Considering the arguments advanced at the Bar, we direct that the competent authority would allot those 4 quarters to the employees of non-essential service. The names of those employees would be decided by the competent authority according to their entitlements as per the Rules keeping in view the instructions/guidelines issued by

the higher authorities from time to time.

4. Thus, this application is accordingly disposed of leaving the parties to bear their own costs. The stay order passed by this Bench stands automatically vacated.

[Signature]
21.9.88
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

g agree.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 21, 1988/S.Sarangi.

[Signature]
21.9.88
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Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Misc. Application No. 272 of 1988
(Arising out of O.A. 283 of 1988)

Date of decision : October 26, 1988.

Shri Mahadeb Das, son of late M.C. Das,
aged 46 years, Secretary, C.P.W.D. Class IV
Staff Union, Orissa Branch, Bhubaneswar,
Unit 8, Nayapalli, Bhubaneswar-12, Dist- Puri.

... Applicant.

Versus

Executive Engineer,
Bhubaneswar Central Division,
C.P.W.D., Unit-8, Nayapalli,
Bhubaneswar- 12, District- Puri.

... Respondent.

For the applicant ... M/s S. Misra- 1
S.K. Nayak-2
Mrs. R. Sikdar, Advocates.

For the Respondent ... Mr. A.B. Misra, Sr. 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.
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J U D G M E N T

K.P.ACHARYA, MEMBER (J), This application arises out of Original Application No. 283 of 1988 ,disposed of by this Bench in a judgment dated September 21,1988 .

2. The facts relating to Original Application No. 283 of 1988 are as follows :

The application was filed by the Secretary,C.P.W.D. Class IV Staff Union, Orissa Branch, Bhubaneswar on behalf of the Union claiming that four quarters ear-marked for Class IV employees should be allotted to Class IV regular employees and no such quarters should be allotted to the work charged employees. After having a full fledged hearing of the said case and after giving our careful consideration to the arguments advanced at the Bar, we gave the following direction :

" We direct that the competent authority would allot those 4 quarters to the employees of non-essential service. The names of those employees would be decided by the competent authority according to their entitlements as per the Rules keeping in view the instructions/ guidelines issued by the higher authorities from time to time ".

3. Mr.S.Misra (1), learned counsel for the petitioner has today moved an application on behalf of the same petitioner for clarification of the judgment. During the course of argument it was candidly admitted before us by Mr. Misra that there is no ambiguity in

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regard to allotment of the 4 quarters to the employees of the non-essential service and therefore rightly and fairly Mr. Misra submitted that he does not want any clarification in regard to that particular aspect mentioned in the judgment. As regards allotment of quarters to the particular employee/ employees of the non-essential service who would be entitled to as per rules- we have already said that decision to the above effect would be taken by the competent authority and on this aspect also Mr. Misra has no grievance. The only point that was urged before us by Mr. Misra is that the competent authority wants to allot quarters in favour of non-essential work-charged staff and on that point there should be a clarification. We called upon Mr. Misra to file the order passed by the competent authority indicating that allotment of the quarters has been made in favour of persons other than those category of persons mentioned in our judgment. Mr. Misra submitted that there has been no written order to the above effect and ^{he} therefore/ is unable to file any such order. Mr. Misra further submitted that the competent authority at Bhubaneswar is not taking into consideration the directions issued by the higher authorities from time to time. On this matter also we wanted Mr. Misra to file written order passed by the competent authority. Mr. Misra pleaded his inability to file any such document because no such order has been passed. In such circumstances, we are unable to act upon the submission made by Mr. Misra

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which is an outcome of the oral instructions given to him by his client. We would ^{go} to the extent to say that these are mere apprehensions of his client. We cannot act on the apprehensions of his client. In such circumstances, we find no merit in the application which stands dismissed leaving the parties to bear their own costs. Mr. Misra again submitted that leave should be given to his client to approach this Bench for redressing his grievance if the competent authority has passed any adverse order contrary to the directions given in the judgment. For this no leave is required; however we have no objection if the petitioner approaches this Bench again if he wants to seek any relief.

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26.10.88
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Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

g agree.



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26.10.88
.....
Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench.
October 26, 1988/Roy, Sr.P.A.