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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

Original Application No.297 of 1988

Date of decision : November 15,1988.

Kumari Jyotshnamayee Buda, aged 29 years,  
d/o late Braja Bhukan Buda ( who died while in  
service as A.P.M., Sundargarh Headquarrers Post  
Office on 12.7.88) residing at Quarter No.C.216,  
Sector,6, Rourkela-2, Dist.Sundargarh. ...

Applicant.

Versus

1. The Union of India, represented by its Secretary,  
Ministry of Communication, Dak Bhavan, New Delhi.
2. Post Master General, Orissa, Bhubaneswar.
3. Director of Postal Services, Sambalpur Region,  
Sambalpur.
4. Senior Superintendent of Post Offices,  
Sundargarh Division, Sundargarh.

...

Respondents.

For the applicant ...

M/s.S.Kr.Mohanty,  
S.P.Mohanty, Advocates.

For the respondents ...

Mr.A.B.Mishra, Senior Standing  
Counsel (Central).

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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 ? Yes.
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J U D G M E N T

K.P. ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has claimed several reliefs. We shall deal with the same at the appropriate stage, hereunder.

2. Shortly stated, the case of the applicant is that she is the daughter of late Braja Bhukan Buda who was serving in the Postal Department as an Assistant Postmaster. While the said Braja Bhukan Buda was serving at Rourkela, he had been allotted with quarters bearing No. C.216, Sector-6 at Rourkela and thereafter the said Braja Bhukan was transferred to Sundargarh and he joined at Sundargarh. Braja Bhukan not having vacated the quarters, not only penal rent was imposed on Braja Bhukan but a disciplinary proceeding was initiated against him. The said Braja Bhukan fell ill and was admitted into a Hospital at Sundargarh. During the period of illness of Braja Bhukan an order passed by the competent authority was served on him compulsorily retiring Braja Bhukan from service because of the disobedience on the part of Braja Bhukan for not having carried out the orders of the competent authority to vacate the quarters. Short<sup>ly</sup> after the order was served on Braja Bhukan he breathed his last at the Hospital on 12.7.1988.

In this application the order of compulsory retirement has been challenged by his daughter i.e. the present applicant and also it has been prayed that the applicant with the family of Braja Bhukan may be allowed to continue in the quarters in question till April, 1989 and the penal rent imposed on Braja Bhukan be quashed and the amount paid be

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returned to the legal representatives of Braja Bhukan and they may be relieved of payment of any penal rent for occupation of the said quarters.

3. In their counter, the respondents maintained that the order compulsorily retiring the applicant cannot be held to be illegal because a full fledged enquiry was conducted and the applicant having been found to be guilty. Appropriate orders were passed by the competent authority for disobedience of orders and therefore, it should not be unsettled. In regard to other reliefs claimed by the applicant, it is maintained by the respondents that orders for eviction and imposition of penal rent are according to law and should not be vacated.

4. We have heard Mr. S. Kr. Mohanty, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr. A. B. Mishra at some length. Mr. Mishra emphatically urged that this application is not maintainable because the applicant has claimed plural remedies and under the Act the claim of plural remedies being barred, this application should be straightaway dismissed. After hearing learned counsel for both sides we think there is considerable force in the afore-said contention of Mr. Mishra and therefore, Mr. S. Kr. Mohanty, learned counsel for the applicant submitted before us that in this application, the prayer for setting aside the order of compulsory retirement is not pressed for the moment and the Bench should confine itself to grant <sup>of</sup> other reliefs claimed by the applicant. Mr. Mohanty further prayed that liberty should be given to the applicant to file separate application

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in regard to setting aside the order of compulsory retirement. Having heard learned counsel for both sides on this question we accept the prayer of the applicant's counsel that the order compulsorily retiring the applicant's father is not pressed for the present and liberty is hereby given to the applicant to file separate application for this purpose, if so advised. We would now confine ourselves to the limited prayer of the applicant for allowing occupation of the family of Braja Bhukan till April, 1989 and for quashing of the penal rent imposed on Braja Bhukan and sought to be recovered from the legal representatives of the said Braja Bhukan Buda. Under the provisions of S.R. 317-B-11(2) (quoted below) the family of the deceased employee of Postal Department is entitled to retain the quarters for 6 months.

" According to the provisions of SR. 317-B-11(2), a residence allotted to an officer can be retained on retirement or terminal leave for a period of 2 months and on the death of allottee for a period of 4 months for the bonafide use of the officer or member of his family. The Department of Personnel & Training had suggested that as a measure of good gesture to the retiring Government employees, the permissible period of retention on payment of normal licence fee may be increased from 2 months. The matter has been considered and it has been decided by the Government that the permissible period of retention as per SR. 317-B-11(2) may be increased from 2 months to 4 months in the case of retirement or terminal leave, and from 4 months to 6 months in the case of death of the allottee. It has also been decided that in the case of retirement/terminal leave, further retention that can be allowed in special cases on payment of enhanced licence fee as per proviso to SR. 317-B-22 may be reduced from a period not exceeding six months to 'not exceeding 4 months'. A copy of the Notification S.O. No. 666 dated 10th February, 1986 published in the Gazette of India dated 22nd February 1986 is sent herewith. xx xx "

In view of the aforesaid provision we deem it proper to

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allow the family of late Braja Bhukan Buda to continue in the quarters in question till 30th January, 1989 keeping in view the fact that Braja Bhukan died on 12.7.1988 which was undisputed before us.

5. As regards imposition of penal rent we feel that this should be sympathetically considered especially in view of the fact that an employee who has rendered his good service to the Department for such a long time should not be punished in this manner and especially the family of the deceased employee who must be hard hit financially and mentally by the death of the said employee i.e. the present applicant's father, late Braja Bhukan Buda. Therefore, we do hereby quash the penal rent imposed on Braja Bhukan and the members of his family and we do hereby direct that ordinary rent should be charged from the members of the family of Braja Bhukan from the date on which penal rent was imposed enforceable by the Postal Department and the amount already realised from Braja Bhukan or his family members towards penal rent should be refunded to the legal representatives of Braja Bhukan deducting the ordinary rent chargeable in respect of the said quarters.

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



*[Signature]*  
15.11.88  
.....  
Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN,

*I agree.*

*[Signature]*  
15.11.88  
.....  
Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
November 15, 1988/S.Sarangi.