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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 63 of 1988

Date of decision ... July 12 , 1988

Rabindranath Mohapatra, son of Narendranath Mohapatra,
L.S.G. P.A. Balikuda S.O., At/P.O- Balikuda, Dist- Cuttack.

... Applicant.

Versus

1. Union of India, represented by the Post Master General,
Orissa, At/P.O- Bhubaneswar, Dist- Puri.
2. Superintendent of Post Offices, Cuttack South Division,
At/P.O/Dist- Cuttack, Cuttack- 753001.
3. Post Master, Jagatsinghpur, H.O.,
At/P.O- Jagatsinghpur, Dist- Cuttack.

... Respondents.

Mr. C.A.Rao, Advocate

... 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

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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 His Lordship desires to see the
fair copy of the judgment ? Yes .
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11J U D G M E N T

B.R. PATEL, VICE CHAIRMAN, The applicant was working as Lower Selection Grade Postal Assistant at Jagatsinghpur Head Office where he occupied a Government quarters. On 14.5.1986 he was transferred from Jagatsinghpur Head Office to Anakhia but on his representation on compassionate ground this order was modified to the extent that he was posted to Chatra near Jagatsinghpur town. He was again transferred on 8.9.1987 vide Annexure-2 to Balikuda sub-office as Postal Assistant. This order is dated 8.9.1987. He, however, continued to occupy the Government quarters at Jagatsinghpur and the Superintendent of Post Offices, Cuttack Division issued an order in reply to his representation directing the applicant to vacate the departmental quarters immediately and make it over to Post Master, Jagatsinghpur Head Office, vide Annexure-5. His representation against this order did not yield any result and the Superintendent of Post Offices, Cuttack South Division vide his order dated 9.2.1988 addressed to the Post Master, Jagatsinghpur directing him to recover house rent from the applicant for two months on normal licence fee from the date of his relief from Chatra and thereafter at the rate of 40 percent of his pay for un-authorised occupation as the official had not been permitted to retain the quarters vide Annexure-8. The applicant has requested the Tribunal for issue of orders quashing the orders in Annexures-2, 5 and 8 and further to direct Respondent No.2 to refund the illegal recovery of house rent from October, 1987 onwards and also refund the recovery of 20 % of his pay during the period he was on leave at Jagatsinghpur i.e, from 14.5.1986 to 20.2.1987.

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2. The respondents have maintained in their counter that a Postal Assistant is subject to periodical transfer under rules and that no official should be retained in the same office other than on first class Head Office for more than four years. As the applicant had completed his tenure of four years at Jagatsinghpur Head Office which is not a first class Head Post Office he was ordered to be transferred to Anakhia, vide Annexure- R/2 and the applicant was relieved from his post on 13.6.1986. The applicant instead of reporting on his duty at Anakhia applied for medical leave on health ground and he was declared fit by the authorised medical attendant to resume duty on and from 20.2.1987. As at that time the Sub- Post Master, Chatra made a request for his transfer to Anakhia, the transfer order of the applicant was cancelled and he was posted to Chatra as Sub- Post Master. During his tenure at Chatra, however, a case of fraudulent withdrawal of money from the Savings Bank Account came to notice which is at present subject-matter of a criminal case under trial in the Court of Additional Chief Judicial Magistrate, Bhubaneswar against the applicant. Because of this, his continuance at Chatra was not considered desirable and he was transferred to the post as L.S.G.PA. Balikuda Sub- Office which is 16 K.Ms. from Jagatsinghpur. The applicant did not vacate the Government quarters when he was relieved from duty on 13.6.86 and an order was passed dated 8.9.1986 to vacate the quarters. The applicant was relieved of his post of Sub Post Master, Chatra on 10.9.1987 and reported for duty at Balikuda on 21.9.1987 but he did not vacate the Government quarters and hence orders were issued to recover house rent

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from the applicant for the period of two months at normal rate and thereafter at the rate of 40 % of his pay. Since house rent has been recovered from the applicant under the rules and since his transfer has been done on exigencies of public service, the applicant, according to the respondents, is not entitled to any relief.

3. I have heard Mr. C.A.Rao, learned counsel for the applicant and Mr. T.Dalai, learned Addl. Standing Counsel for the Central Government. Mr Rao does not press for any relief so far as the applicant's transfer from Chatra to Balikuda is concerned. The applicant has more over has already joined at Balikuda with effect from 21.9.1987 and as such his prayer for quashing the order of transfer has become infructuous. Mr. Rao has confined his plea for quashing of the order at Annexure-5 i.e, vacation of the departmental quarters ordered by the Superintendent of Post Offices on 23.11.1987 and levy of penal rent at the rate of 40 % of pay for the unauthorised period beyond two months as at Annexure-8 and quashing of the orders recovering penal rent at 20 % of pay from 14.5.86 to 20.2.1987. The grounds urged by Mr. Rao are that he was transferred during the middle of the educational session of the children and as his children were reading in Jagatsinghpur college, he should be allowed to occupy the quarters till the end of the educational session i.e, end of June 1988. He has also represented to the competent authority to this effect vide Annexure-7. So far as payment of rent from 14.5.86 to 20.2.87 is concerned, Mr. Rao has urged that the applicant was on leave during this period and leave has been duly sanctioned and, as such, occupation of quarters for this

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period should not be treated as unauthorised and he should not be charged penal rent. Mr. T. Dalai, learned Addl. Standing Counsel on the other hand has contended that the applicant was in the habit of continuing to occupy the Government quarters even after his transfer and that the rent has been assessed by following the prescribed rules and no relief be granted to the applicant.

4. Admittedly the applicant was on leave from 14.5.1986 to 20.2.1987 on medical ground and the genuineness of leave applied for was recognised by the Department when his leave was sanctioned. As it was on medical ground, there is a case of ~~further~~ treating the applicant leniently so far as occupation of Government quarters is concerned. Rent has been realised at the rate of 20 % of his pay for this period and ^{ends of} justice will be met if the rent is reduced to 10% of his pay for the period from 14.5.1986 to 20.2.1987 which was covered by leave sanctioned.

As regards his plea for waiving the penal rent for the period after he joined at Balikuda i.e, from 21.9.1987 it is noted that the applicant as yet has not vacated the quarters even though he represented for retention of the quarters, vide Annexure-7 till the end of June 1988. Mr. Misra has urged that this is a year-marked quarters and retention of the quarters even after his transfer has caused considerable hardship to the new person who has been posted in his place. Retention of the quarters by the applicant beyond June 1988 has absolutely no justification and he is hereby directed to vacate the Government quarters at Jagatsinghpur on or before 31.7.1988 without fail. Though the Department

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has levied the penal rent as per instructions of the Post Master General, Orissa Circle, Bhubaneswar dated 12.9.1984 considering the fact that the petitioner was transferred in the middle of the educational session and vacation of the quarters would have dislocated the education of his children, a compassionate view of the matter should be taken. In view of this, it is directed that for the first two months after 21.9.1987, house rent should be realised from the applicant at the rate of 10 % of his pay and for the remaining period thereafter till the vacation of the quarters on or before 31.7.1988 rent should be realised at the rate of 20% of his pay . Excess rent, if any, realised should be refunded to the applicant. Mr. Rao has put up another plea in regard to payment of housing allowance to the applicant. This is not one of the reliefs sought in para 9 of the application. However , mention of it has been made in para 6 (iv). He should be given house rent allowance, if permissible under the rules .

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

Rm 12.7.88
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Vice Chairman

Central Administrative Tribunal,
Cuttack Bench.
July 12 , 1988/Roy, Sr. P.A.

