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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 154 OF 1989.

Decided on 25th July, 1989.

Suresh Chandra Mohanty,
Son of late Madhusudan Mohanty
Pathania Sahi, Puri Town,
P.O./District-Puri,
Retired Sub-Postmaster, Puri-2 S.O.

.... Applicant

Versus.

1. Senior Superintendent of Post Offices,
Puri Division, Puri- 752001,
District-Puri.
2. Postmaster General,
Orissa Circle,
Bhubaneswar, Dist-Puri.
3. Director General of Posts,
Dak Bhawan, New Delhi- 110 001.
4. Union of India, represented
through the Secretary,
Ministry of Communications,
Government of India,
New Delhi -110 001.

.... Respondents

For Applicant - Mr. D.P.Dhalsamanta

For Respondents-Mr. A.B.Misra, Senior
Standing Counsel (Central).

C O R A M :

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. Whether the judgment would be referred to No the Reporters or not ?
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes.

JUDGMENT.

B.R. PATEL,
VICE -CHAIRMAN.

In this application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant prayed for orders granting him House rent allowance in lieu of rent-free accommodation at the admissible rate for the period from 21.4.1985 to 31.12.1988 and to grant him costs of the application and any other relief as would be considered appropriate in the circumstances.

2. The case of the applicant, in brief, is that he worked as Sub-Postmaster, Puri S.O.-2 from 1.6.1984 to 31.12.1988. There is ~~a~~ rent-free accommodation provided to the Sub-Postmaster, Puri-2 S.O., but his predecessor continued to occupy the quarters ear-marked till 20.4.1985. Because of this, the applicant was sanctioned House rent allowance from 1.6.1984 till 20.4.1985. When the quarters was made over to the applicant by his predecessor on 20.4.1985 he found that the quarters was in disrepair ~~and~~ ^{condition} and was not suitable for accommodation and therefore

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he reported this fact to the respondent No.1, Senior Superintendent of Post Offices, Puri Division, Puri, vide Annexure-1. On 13.1.1987 he represented to the respondent No.1 for sanction of House rent allowance vide Annexure-2. As there was no response from the respondent No.1, he preferred an appeal on 28.8.1987 to the respondent No.2, the Postmaster General, Orissa Circle, Bhubaneswar, vide Annexure-3. It was only on 7.12.1988 that he received a letter from the respondent No.1 conveying the orders of the respondent No.2 that his claim for House rent allowance had been rejected. As he never occupied quarters provided for the Sub-Postmaster, Puri S.O.-2, the applicant has asked for the house rent allowance from 21.4.85 to 31.12.88 when he retired from Government service.

3. The respondents in their counter affidavit have maintained that the applicant was not entitled to the relief sought inasmuch as ~~a~~ rent-free accommodation was provided to him and if he has not availed of it for any reason whatsoever, he could not be given House rent allowance in lieu thereof. They have, therefore, submitted that the application should be dismissed.

4. I have heard Mr. D.P. Dhalsamanta, learned counsel for the applicant, and Mr. A.B. Misra, learned Senior Standing Counsel for the Central Government and



perused the records. Mr. Dhalsamanta has vehemently urged that as quarters was not suitable for family accommodation, the applicant did not occupy the quarters and as such he should be allowed House rent allowance from 21.4.1985 when the quarters was made over to him till 31.12.1988 when he ceased to be in Government service as he retired on superannuation.

Mr. A.B.Misra on the other hand maintained that the House rent allowance is given only when ~~a~~ rent-free accommodation to which an employee is entitled is not available. In the present case, according to

Mr. Misra, an ear-marked quarters was available for the applicant to occupy. He has further contended that the predecessor of the applicant was in occupation of the quarters for a long four years and he never complained of any damage or deficiency in the quarters provided.

Moreover, according to Mr. Misra, the items of repair pointed out by the applicant in his letter dated 3.5.1985 which were minor in nature were attended to. In this connection, he drew my attention to the letter of the landlord, a copy of which is at Annexure-R/1. This letter is dated 31.8.1985 written by Sri G.C.Sahoo, who was the owner of the building taken on rent by the Postal

Department wherein he has informed the Superintendent of Post Offices, Puri Division, Puri that the repairing and white-washing work of his building let out to Puri-2 post office had been completed and it was now alright in all respects. A reading of Annexure-1 i.e. the letter written by the applicant to the Senior Superintendent of Post Offices, Puri Division pointing out the ~~list~~ [✓] of items for repair and the letter written by the owner of the house on 31.8.1985 vide Annexure-R/1 make it abundantly clear that there were some defects in the quarters which had been attended to by 31.8.1985.

The respondents also have mentioned in their counter that the applicant informed the Superintendent of Post Offices in his letter No.1022 dated 29.8.1985 that white-washing of the building had been completed on 29.8.1985. Mr. Misra also has pointed out that the applicant is a resident of Puri having more than one house and he intentionally avoided occupation of the ear-marked quarters in order to get House rent allowance. He has further maintained that the residential quarters forms a part of the building which was hired by the Department for the office purpose and during the period in question, the applicant as Sub-Postmaster was holding his office in that building. According to him, if the building was safe for the office, it was also safe for the residence. Admittedly the applicant as Sub-Postmaster, Puri SO-2 was entitled to rent-free

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accommodation and in lieu thereof to House rent allowance.

Admittedly the Postal Department took a building on hire and in a portion of this building the office was being held and in another portion, the Sub-Postmaster was residing. The predecessor of the applicant lived in the quarters ear-marked for the residence for long four years and never complained to the higher authorities about the condition of the building. This is, however, not a ground to conclude that there was no defect at all in the building. The letter of the applicant to the Senior Superintendent of Post Offices at Annexure-1 and the letter of the house owner at Annexure-R/1 make it clear that there were some defects which were attended to. It is not possible for me to undertake a roving enquiry into whether the applicant had ^a any house or more than one house at Puri. I do not also consider it necessary to make any such enquiry. The letter at Annexure-1 and the letter at Annexure-R/1 make it clear that there were some defects in the house which were subsequently repaired. I am inclined to hold that because of these defects it was not possible for the applicant to occupy the quarters with his family immediately after he took over its possession on 21.4.1985. The building was, however, in a fit condition for family occupation on or after 31.8.1985 when the house owner reported completion of repair and white-

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washing work in the building. It is, therefore, held that the applicant is entitled to House rent allowance in lieu of rent-free accommodation from 21.4.1985 till 31.8.1985 and he is not entitled to any House rent allowance from 1.9.1985 till his retirement on superannuation on 31.12.1988. The house rent allowance as decided should be given to the applicant within three months from the date of receipt of a copy of this judgment.

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



Ram Mohan
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25.7.89
VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack,

The 25th July, 1989/Jena/SPA.