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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 104 of 1989.

Date of decision : April 6, 1990.

Banamali Mallik

...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ...

M/s. Deepak Misra,  
Anil Deo,  
B.S. Tripathy, Advocates

For the respondents ...

Mr. Tahali Dalai,  
Addl. Standing Counsel (Central)

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C O R A M :

THE HON'BLE MR. N. SENGUPTA, 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

N. SENGUPTA, MEMBER (J)      The subject matter of this application is the allotment of a quarters.

2.            The applicant while working as Sub-Postmaster, Manglabad was allotted a post-quarters in Cantonment Road. The case of the applicant is that all quarters which did not form part of post offices but earmarked as Post-

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quarters, were transferred to the general pool in August, 1986. In April, 1987 he (the applicant) was transferred to Cuttack General Post Office as Postal Assistant in the Lower Selection Grade. On his transfer he submitted a representation on 30.4.1987 praying for reallocation of the same quarters to him as he was seniormost Scheduled caste employee at the station. Respondent No.3 rejected that representation by his order dt.2.7.1987 and directed recovery of rent at the rate of 40% of the basic pay. After that, he made a representation to Respondent No.2, to set aside the order of Respondent No.3, but as that representation to Respondent No.2 was not disposed of in time, he approached this Tribunal in O.A.240 of 1987 and this Tribunal directed the disposal, by Respondent No.2, of the representation within one month from the date of receipt of copy of the judgment in that case. Respondent No.2 without disposing of his (applicant's) representation, on 6.10.1988 passed an order directing vacation of the quarters by 16.10.1988. This compelled him to again approach this Tribunal in O.A.346 of 1988 where it was ordered that before disposal of the representation no eviction can be made. On 17.2.1989 Respondent No.2 informed that he (the applicant) was not entitled to allotment of a quarters from the general pool as the number of quarters at Cuttack being only 5, a reservation of 5 % could not be made. It is further averred that infact there are 15 quarters of the type to which the applicant is entitled and according to allotment Rules, the

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allotment of a quarters to an employee who is posted in the same station after transfer is not to be disturbed, hence the order of respondent No.2 rejecting his representation is not sustainable. Making these allegations, the applicant has prayed for a direction quashing the order of Respondent No.2 at Annexure-1 and to allot the quarters that he is in occupation of, to him.

3. The respondents in their counter have stated that the applicant on assuming charge of the office of Sub-Postmaster, Manglabag occupied the quarters which was a post-quarters, in July, 1983. On 17.8.1986 the Postmaster General, Orissa, passed an order that on vacation of the quarters by the applicant, the same would be transferred to the general pool; the quarters still retains the character of a Postquarters. Apart from that there are senior scheduled caste employees serving in Cuttack City Division and as there are only 6 quarters in the general pool at Cuttack, the applicant is not entitled to allotment of any quarters either on the strength of his seniority or the basis of reservation, which of course, cannot be made in view of the number of quarters available.

4. The learned counsel for the applicant has, at the hearing, repeated the same argument as stated in the grounds for relief mentioned in the application. There has been some controversy with regard to the number of quarters in the general pool at Cuttack, but that, in the circumstances of the case, is not much material. Even

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assuming that the number is 15, 5 % reservation cannot be made because 5% of 15 would be less than unity and there is no provision to reserve at least one quarters for Scheduled Caste/Tribe employees in case the number of quarters is less than 20. In such cases a 60point roster is to be followed and points 20 and 40 are to be for Scheduled Caste employees ( See- Annexure-3). In the instant case, the applicant has not based his claim on the roster point.

5. The applicant has referred to the order passed in August, 1986, a copy of this order has been filed by Respondents as annexure-R-1 to their counter ( there is some discrepancy with regard to the date) .In that letter it was stated:

" It has therefore been decided that as and when the occupants of the postquarters in the staff colony vacate the quarters, they should be merged with the general postal pool and allotment thereafter made according to the prescribed conditions. "

There is no dispute that the quarters that the applicant is now occupying, was a postquarters and he entered into that quarters by virtue of his posting as S.P.M., Manglabag. There is also no dispute <sup>that</sup> at no time after his occupation of the quarter in question did the applicant vacate the quarters. Therefore, from what has been quoted above, it can safely be said <sup>that</sup> the quarters in question cannot be deemed to have been transferred to the general pool, so Annexure-3 can have no application to the facts of the present case.

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6. To sum up, the applicant's allegation that he is the seniormost scheduled caste employee at the station has not been established, only the roster system of reservation can be followed in view of the number of quarters and the applicant's case is not that his chance comes according to that system, and as the applicant has not vacated the quarters in question, it cannot be deemed to have been transferred to the general pool.

7. In view of the reasons mentioned above, the applicant is not entitled to any of the reliefs prayed for by him. The application is dismissed but the respondents to allow further time of two months from the date of this judgment to <sup>the</sup> applicant to vacate the quarters. No costs.



*M. S. Sanyal*  
6-4-90  
.....  
Member (Judicial)