

2

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 3 of 1990

Date of Decision ... 1. 7. 1991

Radhashyam Mohanty ... Applicant

Versus

Union of India & others ... Respondents

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For the applicant ... M/s.B.Panda,
Devasish Panda,
G.C.Mohapatra &
Miss.D.R.Mohanty,
Advocates

For the respondents ... M/s.Ganeswar Rath,
Standing Counsel (Central)

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C O R A M

HON'BLE SHRI N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether the reporters of local newspapers 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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JUDGMENT

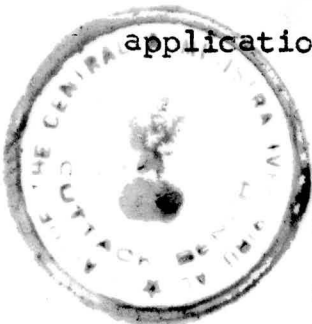
N. SENGUPTA, MEMBER (J), In this case none appears for the parties on calls. But, however, it can be decided on the affidavit and the counter affidavit filed by the parties.

2. The facts of this case are that the applicants are the employees of Government of India Text Book Press at Bhubaneswar. They were allotted quarters in the Text Book Press Colony at Saheednagar, Bhubaneswar. A Union, named Government of India Text Book Press Workers' Union represented through its General Secretary filed a suit in the Court of the Munsif, Bhubaneswar against the present applicants. The learned Munsif by the judgment delivered by him on 14.9.1988 decreed the suit in part and declared the allotment of quarters in favour of the present applicants to be illegal and he cancelled the orders of allotment passed by the Manager, Government of India Text Book Press, defendant no. 3 in the suit and respondent no. 2 in the present application. Thereafter, orders of cancellation of the allotment of quarter in favour of the applicants was passed and copies thereof are annexures-2 series to the present application. The relief that the applicants have asked is for quashing annexure-2 series i.e. the cancellation orders.

3. The respondents have filed a joint reply in counter to the application. Their case is that on receipt of the judgment passed by a learned Munsif, Bhubaneswar, Respondent No. 2 passed the orders of cancellation in compliance to the judgment of the learned Munsif.

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1.7.91.

4. On a perusal of the counter all that appears is that the action taken by the respondent no. 2 was based on the judgment and decree passed by the learned Munsif, Bhubaneswar and no other reason has been assigned for cancelling the orders of allotment of quarters earlier made in favour of the applicants. The point for consideration is whether such orders of cancellation are sustainable. It can not now be disputed that allotment of a quarters to a Government servant is a matter connected with his service as such Government servant and accordingly, is a service matter. Undisputedly the suit, though might have been filed prior to the constitution of this Tribunal, was pending and was not disposed of when this Tribunal came into being. After this Tribunal came into existence, the jurisdiction of the learned Munsif ceased and any order passed by the learned Munsif was wholly without jurisdiction in view of Section-29 of the Administrative Tribunals Act. When an Act is based on a void order, the act itself is void. Hence, the order of cancellation having been based on the void order passed by the Munsif can not be allowed to stand. But, however, that is not say that respondent no. 2 has no right to cancel the order of allotment if there be other just and proper grounds. Since no such other ground has been alleged, the applicants succeed and accordingly the application is allowed. No costs.



M. K. Sahoo
1-7-91
MEMBER (JUDICIAL)

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 1.7.1991/ B.K. Sahoo/