

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No. 382 of 1991.

Date of decision : October 23, 1992.

Sudarsan Rout and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicants ... M/s. Ganeswar Rath,
P.K. Mohapatra,
A.K. Patnaik, Advocates.

For the respondents ... **Mr. Ashok Mishra,**
Sr. Standing Counsel (Central)

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

• • • •

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 His Lordship wishes to see the fair copy of the judgment ? Yes.

• • •

JUDGMENT

K. P. ACHARYA, V.C., In this application, there are altogether 10(ten) applicants. All of them were serving in Aviation Research Centre, Charbatia. All the applicants had been transferred to Sarsawa and other places within North-East region. All the applicants were allotted Government quarters in Charbatia. Applicant No.3, Sridhar Moharana and applicant No.9 Sisir Kumar Mohapatra have since vacated the quarters which were under their occupation. Applicant No.2, N.O.K.Nambiar, Applicant No. 5 Indaramani Dalai, Applicant No.6, Akhaya Kumar Mishra, Applicant No.8 Govinda Chandra Bhol and Applicant No.10, Laxmidhar Mohapatra, despite their orders of transfer to North East region did not vacate the quarters and they have not yet vacated the quarters. These applicants have been retransferred to Charbatia. Applicant No.1, Sudarsan Rout, Applicant No.4, Kasinath Sethi and Applicant No.7, Parakhit Rout have also not vacated the quarters allotted to each of them even though they have been transferred. Further case of the applicants is that there has been an illegal assessment of penal rent over each of the applicants for which each of them has been saddled with heavy amount. Hence, the prayer of all the applicants is to quash the penal rent imposed on each of them and to quash Annexure-1 series by virtue of which they have been ordered to vacate the quarters in question.

2. In their counter, the respondents maintained that on being transferred to North East region the

8
applicants were duty bound to vacate the quarters so that other employees could reap the benefit. The applicants not having vacated the quarters, according to Rules, penal rent has been assessed which should not be quashed- rather it should be sustained. In a ~~crux~~ it is maintained, that the case being devoid of merit is liable to be dismissed.

3. I have heard Mr. Ganeswar Rath, learned counsel for the applicants and Mr. Ashok Mishra, learned Senior Standing Counsel (Central) appearing for the respondents.

4. I cannot conceive of a situation that a member of the Bar would make a wrong statement. But all the same since the statements of Mr. Rath are on instructions I would say if the applicants 3 & 9 have vacated the quarters allotted to each of them, and if the applicants 2, 5, 6, 8 and 10 have come back on transfer then the following orders shall be given effect to. In case, applicants 2, 5, 6, 8, and 10 have comeback on transfer they are certainly entitled to Government quarters according to Rules. Mr. Rath submitted that the authorities are offering higher type of quarters which would be inconvenient for the applicants so far as the educational facilities of their children is concerned. In my opinion, this is not a reasonable ground for not vacating the quarters. But all the same I would commend to the concerned authority to reconsider the prayer of the applicants 2, 5, 6, 8 and 10 if they could be accommodated in the quarters which are in their occupation. But
orders be passed accordingly by the authority dated

if the concerned authority takes a decision to allot the quarters of higher type to the applicants ~~of higher type~~ at different places the applicants would be bound by the orders of the concerned authority and they have to vacate the quarters now under their occupation within the date fixed and occupy the quarters allotted to each of them afresh within the time fixed by the concerned authority. In case, no higher type of quarters are available at the present moment, the concerned authority would be well advised to allow the applicants 2, 5, 6, 8 and 10 to continue in the same quarters till the quarters of higher type are made available to each of them. So far as the applicants 1, 4 and 7 are concerned, it is directed that they should vacate the quarters by 31.5.1993 in order to facilitate the education of their children as the examinations would have come to an end by then.

5. So far as the penal rent is concerned, my attention was invited to a judgment of the Division Bench passed in T.A.41 of 1986 dated 30.11.1987, contained in Annexure-3. It was contended by Mr. Ganeswar Rath, learned Counsel for the applicants that the Division Bench having taken a sympathetic view over the petitioners in the said transferred application and having quashed the penal rent imposed over the petitioners in the said case, similar view should also be taken by the Single Judge. This submission of Mr. Ganeswar Rath was stiffly opposed by Mr. Ashok Mishra, learned Senior Standing Counsel (Central) on the ground that the Division Bench had quashed the penal rent keeping in view the peculiar facts and circumstances of that case which should not be made

✓

applicable to the present case especially because despite issuance of several orders to the applicants, they did not comply with the orders passed by the higher authority. I have given my anxious consideration to the arguments advanced at the Bar. [The case of the applicants before the Division Bench is practically the same so far as the present applicants are concerned. A Single Judge is bound by the views expressed by the Division Bench if there are no distinguishable features appearing in both the cases. In the circumstances stated above, the penal rent imposed on each of the applicants in respect of the quarters occupied by each of them is hereby quashed subject to the condition that the applicants comply with the directions given above.]

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

L. S. D. M. B.
..... 23/10/92

VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack.
October 23, 1992/Sarangi.

