

Central Administrative Tribunal,  
Cuttack Bench, Cuttack

Original Application No. 169 of 1992

Date of decision : 17th July, 1992

Surendranath Mohanty .... Applicant  
Versus  
Union of India and others .... Respondents

For the applicant : M/s A.K.Mohapatra-1,  
P.K.Mohapatra,  
K.Panigrahi,  
Advocates

For the Respondent Nos.1 to 3: Mr.K.C.Mohanty, Government Advocate

**CORAM:**

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

AND

THE HONOURABLE MR. M.Y. PRIOLKAR, MEMBER (ADMINISTRATIVE)

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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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JUDGMENT

K.P.ACHARYA, V.C. The 1<sup>st</sup> Ld. Government Advocate for the State of Orissa  
Mr. K.C.Mohanty has entered appearance for Opposite Party Nos.  
1,2 and 3.

2. We have heard Mr. A.K.Mohapatra learned counsel appearing for the Petitioner and Mr. K.C.Mohanty learned Government Advocate for the State of Orissa (for Opposite Party Nos. 1 to 3) at the stage of admission of this case. We do not want to keep this case unnecessarily pending because it would not be beneficial to anybody concerned - rather it would be beneficial to all concerned if it is disposed of today. With the consent given by counsel for both sides, we have heard the case on merits and proposed to dispose of on merits.

3. Shortly stated the case of the petitioner is that while he was serving as accountant in the office of the Executive Engineer, Rural Works Division, Rajghat, District Balasore, a Government quarters was allotted to the petitioner for his occupation and the petitioner had come to this office on deputation from the office of the Accountant General (A&E), Puri Branch. The Petitioner remained in the Government quarters for some time and thereafter he was transferred to Padmapur Irrigation Division within the District of Sambalpur. On transfer, the vacant possession of the Petitioner had to deliver the said quarters to the representative of the appropriate authority and he did not so. According to the petitioner at the time of delivery of possession, no Government properties were found to be missing; but after he took over charge at Padmapur and insisted for issuance of the last Pay Certificate, it was told by the appropriate authority that certain Government properties were found to be missing from the quarters, which he had occupied at the relevant time.

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Therefore, the L.P.C. cannot be issued. On further request L.P.C. has now been issued ~~the~~ of the Petitioner with a stipulation that a sum of Rs. 2,364/- should be realised from the pay of the Petitioner for which this application has been filed with a prayer to quash this order.

4. Mr. Mohanty learned Government Advocate contended that the appropriate authority could not have levied this amount on the petitioner for realisation without any basis and there is no interest on the part of ~~any~~ authority of the Government to put up a false case against the petitioner and therefore, the case should be dismissed. On the other hand it was contended by Mr. Mohapatra learned counsel for the petitioner that at the time when his client delivered the possession no objection was ever raised by anybody regarding the missing of properties and this ~~allegation~~ subsequently made by the concerned authority is false, frivolous and imaginary.

5. We cannot enter into a roving enquiry to ascertain the correctness of the statement made by either parties. We direct the petitioner Shri Surendra Nath Mohanty to file a representation before the Executive Engineer, Rural Works Division ~~stating all the facts~~ ~~Rajghat, District Balasore~~ and we further direct the said Executive Engineer to consider the representation of the petitioner with reference to the register maintained in his office indicating the delivery of possession and taking redelivery of possession in which the properties/fixtures etc. said to be present in the ~~been~~ quarters must have ~~been~~ mentioned and equally the said facts would have been mentioned in the relevant register while taking redelivery of the possession. In case the petitioner demands a ~~it~~ personal hearing ~~it~~ should be given to him and thereafter the Executive Engineer would pass a reasoned order (which may be

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subject matter of judicial review if the order is passed against the petitioner).

6. Till the disposal of the representation, to be made (which should be made within one month from to-day only) by the petitioner/realisation of Rs. 2,364/- should not be made from the Petitioner. If no representation is made within one month this stay order becomes ineffective.

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

MEMBER (ADMINISTRATIVE)

*kg and Jm*  
17-7-92  
VICE CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench/17.7.92/*kg and Jm*

