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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NO:291 of 1992

Date of decision: 28.8.92

Laxmidhar Parida Applicant

Versus

Union of India and others.... Respondents

For the Applicant : M/s C.M.K.Murty,
S.Kr.Rath,
Advocates

for the Respondents : Mr. R.C.Rath,St.Counsel.

CORAM:

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? No
3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the proceeding initiated against the Petitioner and to declare that the Petitioner is a lawful occupant of the quarters bearing No. 115/D and for a further direction to the Opposite Parties to the effect that the Petitioner is liable to pay fair rent in respect of the said quarters.

2. Shortly stated the case of the Petitioner is that he is now functioning as Headclerk, Loco-sheesh, South Eastern Railway, Puri. He was allotted a quarters bearing No. 115/D by order dated 9.9.1989 on the recommendation of the Quarters Allotment Committee contained in Annexure 1. Vide Annexures 2 and 3 dated 14th October, 1991 and 22nd October, 1991 respectively the Petitioner gave necessary intimation to the concerned authority regarding occupation of the quarters in question. On certain false allegations made by some interested persons, the Petitioner was asked to vacate the quarters in question and thereafter a disciplinary proceeding has been initiated against the petitioner. Vide Annexures 5 and 6. Since the Petitioner is a lawful occupant of the quarters in question initiation of a proceeding is inconceivable and hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the quarters in question was never allotted to the petitioner and hence he is not a lawful occupant of the said quarters in question - rather he is a trespasser and not having vacated the quarters in compliance with the direction given by the appropriate authority rightly a disciplinary proceeding was initiated against the petitioner and that should not be

quashed. Hence it is maintained by the Opposite parties that the case being devoid of merit is liable to be dismissed.

4. After hearing Mr. C.M.K.Murty learned counsel appearing for the petitioner and Mr. R.C.Rath, ld. Additional Standing Counsel(Railway) for the Opposite Parties, I did not feel it just and expedient in the interest of justice to keep the question of occupation of the quarters or vacation of the same by the petitioner pending as it may affect the interest of all concerned and therefore by order dated 18th August, 1992, I have assigned reasons for bifurcating this case and for confining this judgment to the vacation or in the alternative retention of the quarters in question by the Petitioner and I have further directed that the question of quashing of the proceeding would be dealt and disposed of by a Division Bench for which that part of the prayer forming subject matter of this Original Application will be numbered as Original Application No.291(A) of 1992.

5. After hearing learned counsel for the both sides, and after perusing the pleadings of the parties and the relevant documents annexed to the petition and to the counter, I find that it is an admitted case of the parties that the petitioner Shri Laxmidhar Parida is in occupation of the quarters bearing No.115/P. Therefore it remains to determine as to whether he is a trespasser or is a lawful occupant in the said quarters. Mr.Murty learned Counsel appearing for the Petitioner relied upon the contents of Annexure 1 in which a part order bearing No.

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had called upon the Petitioner to file a full copy of the said order which has been filed by the petitioner forming subject matter of Annexure 7. Therein it has been mentioned that the quarters under occupation by Shri G.S.Jena when released by him will go to the shed clerk. The quarters number has not been mentioned. The name of the allottee after vacation of Shri Jena has not been mentioned. It was submitted on behalf of the Petitioner that the petitioner is the only shed clerk functioning at Puri and therefore, the quarters allotment committee recommended the said quarters to be given to the present petitioner. Reliance was also placed on annexure 8/ which is a certificate given by the Loco Shed foreman that Shri L.S.Parida is the only Head Clerk working under the Loco foreman office at Puri. In the cause title of the present petition the petitioner has been designated as Headclerk Loco shed. Therefore, it cannot be said with the utmost certainty that the shed clerk is the same as the Head clerk. Conceding for the sake of argument that the petitioner is the loco shed clerk cum head clerk and that quarters allotment committee meant that the quarters in question has to be allotted to the petitioner, it is only a mere recommendation. Quarters are to be allotted by an order passed by the competent authority. The Petitioner has signally failed to produce such order. Therefore, I am of opinion that a regular allotment order has not been passed by the competent authority allotting the quarters in question in favour of the petitioner and therefore the petitioner has unauthorisedly occupied the quarters in question. It is therefore, directed that the petitioner should deliver

vacant possession of the quarters to the competent authority on or before 30th September, 1992 failing which necessary action as contemplated under the law be taken against the petitioner.

6. After the petitioner ^t vacates the quarters in question the competent authority may consider the allotment of the said quarters in favour of the petitioner if he is entitled under the rules.

7. As regards a declaration sought for by the petitioner that he is liable to pay fair rent, I am of opinion that as yet there has been no order passed by the competent authority assessing fair rent or market rent or damage rent whatever is contemplated under the rules because no such order has been filed in this case. Hence no relief can be granted as claimed.

8. In such circumstances, I do not feel inclined to consider this part of the prayer of the petitioner and pass any orders.

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

On 28/8/92
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.

