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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application Nos. 683, 684, 685, 686
and 687 of 1992.

Date of decision : June 18, 1993.

In O.A. 683 of 1992. Sushil Magar ... Applicant.

Versus

Union of India and another ... Respondents.

In O.A. 684 of 1992. Judhisthir Sethi ... Applicant.

Versus

Union of India and another ... Respondents.

In O.A. 685 of 1992. B. Badajena ... Applicant.

Versus

Union of India and another ... Respondents.

In O.A. 686 of 1992. Lingaraj Patra ... Applicant.

Versus

Union of India and another ... Respondents

In O.A. 687 of 1992. Debaraj Patra ... Applicant.

Versus

Union of India and another. ... Respondents.

In all the cases. For the applicants ...

M/s. Aditya Ranjan Tripathy
A.K. Patnaik,
B.B. Patnaik, Advocates

For the respondents...

Mr. Ashok Kumar Misra,
Sr. Standing Counsel
(Central).

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN
A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMIN)
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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? /✓
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

J U D G M E N T

K.P.ACHARYA, V.C.,

The applicants in all these applications are working in different capacities under the Executive Engineer(Electrical), Bhubaneswar Central Division No.1, Central Public Works Department, Bhubaneswar. Government quarters were allotted for occupation of the applicants in the above mentioned original applications. It was alleged that the applicants had sublet their quarters in favour of certain outsiders who were allowed occupation on payment of certain money. This alleged illegal act committed by the applicants having been detected they were ordered to vacate the quarters in question. Hence these applications have been filed by the applicants to quash the order passed by the competent authority asking the applicants to vacate the quarters.

2. In their counter, the respondents maintained that as a matter of fact the applicants had sublet their respective quarters to certain outsiders and in lieu thereof they were receiving rent from those outsiders which is against the Rules in force and therefore, rightly the competent authority had ordered the applicants to vacate the quarters in question. Hence, the cases being devoid of merit are liable to be dismissed.

All these cases were ordered to be listed for Admission and hearing vide order dated 27.4.1993 and

furthermore, it was ordered that all the applicants should vacate the quarters allotted to each of them and that those quarters shall remain vacant till the final disposal of these applications. While disposing of the cases, orders should be passed as to whether the quarters should be reallocated to the applicants.

3. All these cases were heard one after the other and since common questions of fact and law are involved in all these cases it is directed that this common judgment will govern all the cases mentioned above.

4. In all these cases we have heard Mr. A.R. Tripathy, learned counsel for the applicants and Mr. Ashok Misra, learned Senior Standing Counsel (Central) appearing for the respondents. An enquiry was conducted by a responsible officer who has himself witnessed the outsiders living in the quarters in question. Of course, payment of rent by those outsiders to the applicants cannot be proved to the hilt because that is a transaction solely confined between the applicants and the outsiders. But from the evidence on record we are convinced that the applicants had allowed the outsiders to occupy the quarters allotted to each of the applicants. Mr. Tripathy, learned counsel for the applicants vehemently urged before us that statement of the outsiders recorded by the Officer conducting the enquiry was not done in the presence of the applicants and therefore, the impugned order

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should be quashed. From the records we find that a very responsible Officer had conducted the enquiry against whom there is no plea of malafide. Nothing could be placed before us as to what was the reason which prompted the Enquiry Officer to state falsehood against the applicants. Ofcourse the statements should have been recorded in the presence of the applicants but the applicants not making themselves available, law does not empower the enquiring officer to enforce the attendance of the applicants. That apart, in such a trivial matter, we do not propose to linger the cases any further and encourage multiplicity of litigation. We have, therefore, no iota of doubt in our mind to hold that the applicants had allowed the outsiders to occupy the quarters in question which was against the Rules in force and definitely an illegal act ^{committed by} ~~on the part of~~ the applicants. Therefore, rightly the competent authority had asked the applicants to vacate ~~the~~ their respective quarters. At the same time we would observe that the applicants having already vacated the quarters in compliance with the order dated 27.4.1993 (which was admitted before us by counsel for both sides) we feel that the applicants have been sufficiently punished especially because at Bhubaneswar there is heavy dearth of rented houses and wherever such rented house is available very high rent is charged by the landlords and this would be a graver punishment to the applicants who are low paid employees. Even though

we do not appreciate the illegal act committed by the applicants & yet we feel that because of their repentance on their part and the punishment undergone by them, the Executive Engineer should now take a sympathetic view over the applicants and reallocate the quarters in question in their favour giving them a last chance to observe the Rules in strictest terms and the Executive Engineer should keep a close watch over the conduct of the applicants and in case they repeat the illegal act, no further sympathy should be shown to them and the Executive Engineer would be at liberty to order eviction of the applicants from their respective quarters. We hope and trust, the directions given in this judgment will be complied with within a week from the date of receipt of a copy of this judgment.

5. Thus, all these applications are disposed of accordingly leaving the parties to bear their own costs.

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MEMBER (ADMIN)

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VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
June 18, 1993/Sarangdi

