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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 170 of 1993

Date of Decision: January 18, 1994

B.C. Behera

Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? M
2. Whether it be circulated to all the Benches of the ND Central Administrative Tribunals or not ?

km 18.1.94.

VICE-CHARMAN

(6)

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Respondents

For the applicant

M/s. P.C. Kar
J. Gupta,
Advocate

For the respondents

Mr. Ashok Mishra,
Sr. Standing Counsel
(Central)

C O R A M:

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

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19

of the Administrative Tribunals Act, 1985, the petitioner prays to quash the allotment order passed by the concerned authority allotting quarters in favour of the petitioner, and a further prayer has been made to direct the opposite party nos. 2 and 3 to refund the house rent recovered from the petitioner and to pay usual house rent allowance at the rate of Rs. 7½ per cent of his pay.

2. Shortly stated the case of the petitioner is that while he was functioning as an Administrative Officer of Central Zone Excise and Customs, Rourkela, from January, 1992 till 23rd March, 1992, he was allotted with a quarter bearing No. 111/10 vide letter No. 667 dated 27.1.1992. After expiry of the leave availed by the petitioner, he joined service on 27.3.1992 and he found that the quarter was incomplete due to non-availability of electrical and sanitary fittings etc. On 15th April, 1992

the petitioner applied for cancellation of the allotment order in respect of the said quarter. Though the petitioner never occupied the quarter, house-rent from April, 1992, at the rate of Rs.138/- per month has been recovered from the pay of the petitioner though he was entitled to receive Rs.7½ per cent of his pay payable towards the House Rent Allowance. Furthermore it is maintained by the petitioner that the T.A. bill for the month of August, 1992 and medical reimbursement bill for the month of October, 1992 has not yet been cleared^{ed} by the concerned authority. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the petitioner, while staying in the guest house, had taken possession of the quarters in question and had sub-let the same to one Shri P.K.Singh. Therefore, the case set-up by the petitioner is absolutely false. The steps taken by the departmental authorities in realising the house rent was justified which should not be unsettled - rather it should be sustained. As regards disbursement of medical bills and T.A.Bills, it is maintained in the counter that the same has already been paid to the petitioner. In a crux it is maintained by the opposite parties that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr.P.C.Kar, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel. So far as the 2nd prayer of the petitioner is concerned, ordinarily I would have held that the case is bad for multifarious cause of action. But since it is maintained by the opposite parties that the medical reimbursement bill
 and

and T.A. bill have been cleared and paid to the petitioner, no further orders on this question is warranted.

5. As regards occupation of the above mentioned quarter by the petitioner is concerned, Mr.Kar vehemently argued before me that though the allotment order was passed in favour of the petitioner, yet he did not take possession of the same because, the quarter was not in an ~~inhabitable~~ condition due to lack of electric energy etc. and hence realisation of the house rent etc. is illegal, unjust and improper. While taking into consideration this argument advanced by the learned counsel for the petitioner Mr.Kar, I cannot lose sight of the contents of the Annexures R/5 and R/6. Annexure R/5 contains a letter dated 5.11.1992, addressed to the Assistant Collector, Customs by one Shri P.K.Singh. Therein Shri Singh states that he intends to surrender the quarter bearing No.111/10 on 6.10.1992 on behalf of Shri B.C.Behera, Administrative Officer and necessary arrangement may kindly be made to take over the said quarter with its complete fittings and fixtures. Annexure-R/6 is a letter dated 27.4.1993, addressed to the Administrative Officer, Central Excise and Customs, Rourkela by the same gentleman Shri P.K.Singh. Therein it is maintained that Shri Behera had let out his quarter No.111/10 to him(Shri Singh) since May, 1992 and the key of the said quarter is available with him(Shri Singh). After transfer of Shri Behera, it has been decided by Shri Singh to hand-over the key of the said quarters to Shri Behera instead of handing over the same to another person of the Department. The Administrative Officer is

nobody else other than the present petitioner Shri B.C. Behera. All these documents conclusively point^{at} out the fact that Shri Behera had taken possession of the quarter bearing No.111/10 and had sub-let the same to Shri Singh while Shri Behera was staying in the guest house. This action on the part of Shri Behera is most unbecoming of a Government servant and I am surprised to note ~~with~~ regret as to how the departmental authorities have ~~not~~ taken disciplinary action against Shri Behera. I find no justifiable reason on the part of the departmental authorities to have slept over the matter when a particular Government servant is making an illegal to gain to himself. I cannot restrain myself from thoroughly deprecating the action of Shri Behera and equally the indolence on the part of the departmental authorities if ~~no~~ disciplinary action has ~~not~~^{not} yet been initiated against Shri Behera (Present petitioner).

6. In view of the facts stated above, I find no merit in this petition which stands dismissed leaving the parties to bear their own costs.

[Signature]
18.1.94.
VICE-CHAIRMAN



Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 18.1. 1994/ B.K. Sahoo