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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application Nos. 279 of 286 of 1993.

Date of decision : December 13, 1993.

IN O.A.279 of 1993.

All India P & T  
( Civil Wing) Non-Gazetted  
Employees Union and others.

Applicants.

Versus

Union of India and others ...

Respondents.

In O.A.286 of 1993.

Hari Nayak and another ...

Applicants.

Versus

Union of India and others ...

Respondents.

( FOR INSTRUCTIONS)

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

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

13 DEC 93

  
( K.P. ACHARYA)  
VICE-CHAIRMAN.

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All India P & T ( Civil Wing)  
Non-Gazetted Employees Union  
and others ...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicants..

M/s. M. M. Basu,  
A. K. Mohapatra, Advocates.

For the respondents ...  
1 to 3

Mr. Akhyay Kumar Misra,  
Addl. Standing Counsel  
(Central)

In O.A. 286 of 1993.

Hari Nayak and another ...

Applicant.

Versus

Union of India and others...

Respondents.

For the applicants.

M/s Deepak Misra,  
A. Deo, B. S. Tripathy,  
P. Panda, Advocates.

For the respondents  
1 to 3.

Mr. Akhyay Kumar Misra,  
Addl. Standing Counsel (Central)

For the respondent No. 4

M/s. Ganeshwar Rath,  
A. K. Pattnaik,  
P. K. Mohapatra,  
J. C. Sahoo, Advocates.

C O R A M:

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

A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGMENT

K.P. ACHARYA, V.C., Both these applications involve common questions of fact and the prayer in both these applications is same though filed by different persons. Hence both these cases were heard one after the other and it is directed that this common judgment would govern both the cases mentioned above.

2. In O.A.286 of 1993, the applicants pray to quash the order allotting quarters in favour of Respondent No.4.

Shortly stated, the case of the applicant No.1 is that he is working as Sewerman in the Office of the Executive Engineer, Telecom Civil, Division, Bhubaneswar and the applicant No.2 is working as a Wireman under the Executive Engineer, Telecom Civil Division, Bhubaneswar. According to the applicant No.1 he is senior to Respondent No.4 and according to applicant No.2, he joined the service on the same day on which Respondent No.4 had joined his service. According to the applicant No.1, the respondent No.4 being junior to him quarters should have been allotted to the applicant No.1 and according to the applicant No.2, he being a Wireman, he should have been allotted the quarters instead of Respondent No.4. Therefore, it is prayed that the order allotting the quarters in favour of Respondent No.4 should be quashed.

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3. In their counter, the respondents 1 to 3 maintained that a decision was taken by the R.J.C.M. to allot a Type II quarters in Unit IV P & T Colony, Bhubaneswar to the seniormost Wireman working in Unit IV and accordingly, Respondent No.4 being the seniormost Wireman working in Unit IV has been allotted the quarters which is in accordance with the resolution passed in a meeting where members of various Staff unions had participated and the decision was taken by all the members excepting one and accordingly the competent authority has allotted the quarters to Respondent No.4 as per Rule 31(c) of the Allotment of Quarters Rules especailly because there are 250 departmental quarters in Unit IV occupied by more than 100 employees of the P & T Department. Respondent No.4 would be in a position to attend to urgent requirements of these 100 families and during at odd and unusual hours of the night. Even though the applicant No.1 is senior to the Respondent No.4 yet he will not be in a position to attend to the electrical maintenance of different quarters occupied by the Departmental employees. So far as the applicant No.2 is concerned, he is a junior to the Respondent No.4 in the Grade. Hence, it is maintained by the Respondents 1 to 3 that the case being devoid of merit is liable to be dismissed.

4. Respondent No.4 has also filed a counter. The averments finding place therein are practically the same as that of the averments finding place in the

counter filed by the Respondents 1 to 3.

5. In O.A.279 of 1993, the applicants are six in number representing the applicant No.1 that is All India Posts & Telegraphs(Civil Wing) Non-Gazetted Employees Union represented by its Secretary, Krushna Chandra Mohapatra and others. The applicants in this application also challenge the order passed by the competent authority allotting quarters in favour of Respondent No.4 who is also Respondent No.4 in O.A. 286 of 1993). The case of the applicants in this application is that allotment of quarters in favour of Respondent No.4 is illegal as it is against the Rules in force and therefore, it should be quashed.

6. We have heard Mr. Deepak Misra, learned counsel appearing for the applicants, Mr. Ganeswar Rath, learned counsel appearing for Respondent No.4, Mr. Akhyay Kumar Misra, learned Addl. Standing Counsel(Central) for Respondents 1 to 3 in O.A.286 of 1993 and in O.A. 279 of 1993, we have heard Mr. M. M. Basu, learned counsel for the applicants and Mr. Akhyay Kumar Misra, learned Additional Standing Counsel(Central) for the respondents 1 to 3.

7. At the initial stage, a contention was put forward before us by Mr. Deepak Misra, learned counsel for the applicants in O.A.286 of 1993 that the Respondent No.4 has been allotted a house by the Orissa State Housing Board in Chandrasekharpur and therefore the Respondent No.4 should not have been allowed to occupy

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Government quarters in Unit IV. We had called upon the Respondent No. 4 to file an affidavit as to whether such a house was allotted to him by the Orissa State Housing Board. Even no counter has been filed to the above effect but we accept the case of the applicants that a house has been allotted to Respondent No. 4 by the Orissa State Housing Board at Chandrasekharpur. Accepting this position it now remains to be considered as to whether allotment of quarters to Respondent No. 4 in Unit IV is in the larger interest of the inhabitants in the P & T Colony. In this connection, we would refer to the resolution passed by the R.J.C.M. which has been reproduced in the counter filed by the Respondents 1 to 3 in O.A.236 of 1993, which runs thus.

" Allotment of quarters at Unit-IV to the Wireman of Electrical maintenance.

One quarter has to be allotted to the seniormost wireman at unit-IV electrical maintenance on out of turn as a special case to help the dwellers of the colony in odd hours from the electrical disorders.

Reply : The case was examined afresh. Majority of members agreed for allotment of quarter to the seniormost wireman of electrical maintenance at unit IV, Bhubaneswar. However, only one member was not in favour of this proposal. The Chairman after due consideration agreed for allotment of one type II Qrts. at Unit-IV, Bhubaneswar on out-of-turn basis from the Engineering pool to the seniormost wireman at unit-IV P & T colony, Bhubaneswar. "

In the averment finding place in the counter it is stated as follows:

" In the said meeting from the government side 11 officers were present and 13 members from the various staff Unions attended the said meeting and the said decision was taken

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unanimously except one member to allot a quarter on out of turn basis."

Attendance of 11 officers and 13 members from various staff unions was not disputed before us by either parties in both the applications. The paramount consideration is in the larger interest of the inhabitants of the colony who would be facing untold miseries if electric line goes out of order at the odd hour of the night, it would never be possible for anybody to have the services of Respondent No.4 to run to Chandrasekharpur which is at a distance of 10 K.Ms. (approximately) from Unit IV and call him to attend to the maintenance work. It is far beyond our comprehension as to how the applicants in O.A.279 of 1993 are opposing the allotment of quarters to Respondent No.4 when many of the members of the Union had participated in the deliberations which gave rise to the resolution quoted above and we fail to understand as to how the members of the Union who are applicants in O.A.286 of 1993 are objecting to this allotment when the services of the Respondent No.4 would be beneficial to the interest of their colleagues who are inhabitants of the Colony. Therefore, in such circumstances, in the larger interest of 100 families occupying the quarters in the Posts & Telegraphs Colony, Unit IV we would approve of the order passed by the competent authority allotting the quarters on out of turn basis to Respondent No.4 who is senior to Applicant No.2 in O.A.286 of 1993 and furthermore, we feel reluctant to accept the contention put forward on behalf of the  
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applicant No.1 in O.A.286 of 1993 because he has no qualification in regard to electrical maintenance.

8. Before we part with these cases, we must mention that an undertaking was given by Mr. Ganeswar Rath, learned counsel appearing for Respondent No. 4 in both the cases that if at any point of time it comes to the notice of the Chief General Manager, Telecommunications or to any Officer who is the competent authority in allotting the quarters that Respondent No. 4 is absent from his duties to render assistance to the inhabitants of the locality in Unit IV, P & T Colony for maintenance of electrical energy etc. allotment of quarters in favour of Respondent No. 4 should be cancelled and steps should be taken to get him evicted from the said quarters.

9. Subject to the observations made in preceding paragraph of the judgment we find no merit in both the applications which stand dismissed. No costs.

MEMBER (ADMINISTRATIVE)

VICE-CHAIRMAN

13 DEC 23

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Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
December 13, 1993/Sarangi.

