

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application Nos. 88/93, 474/93 & 603/93

Date of Decision: January 19, 1994.

IN O.A. No. 88/93

A.G.K. Murty & Others

Applicant(s)

Versus

Union of India & Others

Respondent(s)

IN O.A. No. 474/93

S.S. Naidu & Others

Applicant(s)

Versus

Union of India & Others

Respondent(s)

IN O.A. No. 603/93

M.R. Ray and others

Applicant(s)

Versus

Union of India & Others

Respondent(s)

• • •

AND THE COUNSEL

for the Respondent

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? NO
2. Whether it be circulated to all the Benches of the NO Central Administrative Tribunals or not ?

VICE - CHAIRMAN

Jan 19. 1994

MEMBER (ADMINISTRATIVE)

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IN OA No. 603/93 M.R.Ray and others Applicants

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IN OA No. 88/93 For the applicants Mr.R.K.Mohapatra,
Sr.Advocate

IN OA No. 474/93 For the applicants Mr.R.C.Das,
Advocate

IN OA No. 603/93 For the applicants M/s C.M.K.Murty
S.K.Rath,
Advocates

IN ALL THE CASES For the respondents Mr.Ashok Mishra,
Sr.Standing Counsel
Central Government

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C O R A M:

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

AND

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

H. RAJENDRA PRASAD, MEMBER (ADMN) In all these applications, the petitioners are working in different capacities in the Office of the Deputy Director, Aviation Research Centre, Charbatia.

2. Vide Circular dated 31st October, 1990, it was

T. S. J. J.

proposed to allot some Type-V(4R) quarters to the officers who had already been provided with Type-4 quarters subject to difference in the payment of standard licence fee between Type V and Type-IV quarters. It was further mentioned in the said circular that desirous officers are advised to forward their applications to reach the office of the issuing authority by 5.11.1990. This is contained in Annexure-1 (O.A. No.88/93). Similar circular was also issued vide Annexure-2 dated 5.12.1990. Vide order dated 8.1.1991 (contained in Annexure-3 to the O.A. No.88/93) a further stipulation was made that once the entitled officers are in need of allotment of the higher type of accommodation, concerned officers in possession of the higher type accommodation must vacate the same and alternate accommodation according to his/her entitlement will be provided by allotting Government quarters. The petitioners filed their applications for allotment of higher type quarters difference in on payment of licence fee between the higher type and entitled quarters and accordingly higher type quarter was allotted to each of the petitioners. In November, 1992, the petitioners were informed that the rent is proposed to be increased with effect from 1.12.1992 and those who do not want to pay the enhanced licence fee should vacate the quarters occupied by them and should take possession of the entitled quarters. Being aggrieved by this order, all the petitioners in all these three cases have invoked the jurisdiction of this Tribunal by filing above mentioned three applications and praying therein to quash the order



13/11/1992

of the concerned authority asking them to vacate the quarters and imposing higher rent.

3. In their counter the opposite parties maintain that since higher type quarters fell vacant, it was noticed that loss of revenue is being caused to the Government, and therefore, all the officers were asked to give their offer as to whether any of them were desirous of availing such accommodation of higher type on payment of ^{the differential} licence fee chargeable in between higher type and the entitled type quarters. The petitioners offered themselves to occupy the higher type quarters on payment of the above mentioned difference in licence fee and accordingly with certain stipulations, quarters were allotted and subsequently there was an amendment of the rules prescribing higher licence fee for such quarters, and the petitioners were given the option either to pay higher licence fee or vacate the quarters and take possession of the entitled quarters of a lower type. The petitioners, instead of complying with the orders passed by the competent authority have unnecessarily invoked the jurisdiction of this Bench without any merit in their respective cases, and therefore, all the three cases being devoid of merit are liable to be dismissed.

4. Since all these three cases involve common questions of law and fact, even though we heard all the three cases separately, we propose to dispose of all the three cases by this common judgment.

5. The initial question that needs determination as to whether there was an offer from the side of the administration to the petitioners in all these three cases or



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to take possession of the higher type of quarters, or the offer was made from the side of the petitioners to occupy the difference in the higher type of quarters on payment of licence fee in between the higher type of quarters and the entitled quarters. It was very fairly conceded by Mr.R.K.Mohapatra, learned Senior Counsel appearing for the petitioners in O.A.No.88/93 that in case the Bench comes to a finding that the offer was made by the petitioners, then the petitioners are out of Court, but, if the contention put forward by the petitioners' counsel in all these three cases that offer was first made from the side of the administrative authorities offering higher type of quarters to the petitioners for occupation and for payment of difference in licence fee chargeable in between higher type quarter and lower type quarters, then the applications are bound to be allowed. This position was rightly and fairly conceded by Mr.Ashok Mishra, learned Standing Counsel appearing for the opposite parties in all these three cases. In view of the concession made by the counsel for both sides in all the three applications(as stated above), the initial question that needs determination is as to whether the offer for occupation of higher type quarter was made by the administrative authority to the petitioners in all these three cases or the offer was made by the petitioners in all the cases for occupation of higher type quarters, and in furtherance thereof higher type quarters were allotted to the petitioners.

6. The main crux of the argument advanced by Mr.R.K.Mohapatra and also the other counsel appearing in



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other cases is that the petitioners were induced by the administrative authorities to occupy 4R quarters on payment of differential licence fee until entitled officers to 4R quarters are available. A clear illegality is being committed in asking them to vacate the quarters and imposing on them two or three times lincence fee which is in contravention of terms of allotment of quarters. On the other hand it was contended by Mr.Ashok Mishra that there was no inducement at all, but a ^{merely} proposal was put forward before all the employees to exercise their options in availing higher type of accommodation on payment of the prescribed licence fee and imposition of higher licence fee is according to the circular issued by the Director of Estates which has to be carried out by the Administrative Authorities in ARC, Charbatia. It was further more maintained by Mr.Ashok Mishra that question of arbitrariness or discrimination does not arise, because the circular is being made applicable equally to all the concerned employees.

7. In order to appreciate the argument advanced by counsel for both sides, it would be beneficial for all concerned to quote the contents of Annexure-1 dated 31.10.1990 (O.A. No.88/93) which runs thus :

" With effect from 1.11.90, it is proposed to allot some Type-V(4R) quarters to the officers, already provided with type-IV Government accommodation subject to payment of standard licence fee between Type-IV and Type-V quarters. Allotment of these quarters will be made strictly on the basis of highest emoluments (i.e. basic pay only) among the desired applicants. No RPT. No choice of allotment will be given.

Necessary arrangement has been made to step down the electricity power consumption in these quarters from 4KW to 2KW to minimise the

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electricity charges at par with Type-IV quarters.

Desirous officers are advised to forward their applications through their respective units so as to reach this office by cease work of 5.11.1990".

In Annexure-2 dated 5.12.90, it is stated as follows :

" In continuation to our office circular No. IV-127192 dated 31.10.90, it is proposed to allot certain numbers of surplus 4R/quarters on adhoc basis on payment of difference of licence fee between higher and entitled quarters.

The desirous officers may apply for the allotment through their respective unit heads so as to reach this office by 10th of this month positively."

From the contents of the above quoted circular it is crystal clear that no particular officer was offered the higher type quarters. On the contrary, this was a general circular issued to give information to all the officers that Type-V(4R) quarters would be allotted to officers already provided with Type-IV government accommodation; subject to payment of standard licence fee between Type IV and Type-V quarters. Those officers who are desirous of availing this accommodation may forward their applications. Had the circular been sent to any particular officer proposing to allot the higher type quarters in his/her favour, then certainly there cannot be any doubt that allotment of a higher type quarter was offered to a particular officer and that particular officer accepted the offer in consequence of which the higher type quarter has been allotted to such officer. In that case the tone of the letter would have been completely different, but while giving our careful consideration to the contents



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of the above quoted circular, we have least hesitation in our mind to hold that this was a general citation issued for information of all concerned officers and those who are desirous of availing higher type of accommodation could offer themselves for availing such accommodation. The word 'DESIROUS' is significant. Since desirous officers were required to forward their applications, question of inducement does not arise. Besides the bald assertion regarding inducement offered to the petitioners, there is absolutely no evidence to irresistably conclude that the petitioners were induced to occupy higher type of quarters. Therefore, we are of opinion that an offer was made by the petitioners expressing their intention to avail the facility of higher type accommodation on payment of licence fee in between Type-IV and Type-V which was fixed at Rs.125/- per month as found from Annexure-3 dated 8.1.1991 in response to the general citation issued by the appropriate authority.

8. The next question that needs determination is as to whether the petitioners could be asked to vacate the Type-V(4R) quarters and move to the quarters to which they are entitled to be provided by the administrative authorities. During the course of argument advanced by Mr.Ashok Mishra, learned Standing Counsel, it was submitted before us that all the petitioners would be given accommodation according to their entitlement, and would be liable to pay the rent prescribed for such quarters and it was further submitted that there are officers, who are willing to pay 2/3 times the normal rent for



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their occupation of higher type quarters viz. Type V quarters to which they are not entitled as per rules. We had directed the Deputy Director, ARC, Charbatia to ask the petitioners whether they are willing to pay 2/3 times the licence fee for the higher type quarters and occupy the same. It was told to us that they are not willing. In the circumstances stated above, we find no justifiable reason to allow the petitioners to pay lesser amount of house rent and occupy higher type of quarters thereby causing loss of revenue to the Government by depriving the officers who intend to pay higher rent for the higher type of quarters. Since there are officers, who are willing to pay higher licence fee, we think it is just and proper to allow them to occupy higher type quarters on payment of higher licence fee and the petitioners would move to the quarters to which they are entitled.



9. Therefore, we would direct the Deputy Director, A.R.C., Charbatia to take the following steps :

- i) Each of the officers/petitioners who are in occupation of the higher type quarters should be provided with alternate accommodation according to their entitlement and such allotment order may be issued, to each of the petitioners within seven days from the date of receipt of a copy of this judgment, if not already issued before filing of the applications. In case the allotment order has been issued, to the petitioners should move the quarters allotted to each of them within seven days from the date of receipt of a copy of this judgment, otherwise within seven days from the date of receipt of the allotment order to be issued by the Deputy Director, A.R.C., Charbatia.
- ii) The Deputy Director, ARC, Charbatia should ensure that all the quarters which would be vacated by the petitioners should be occupied either by the entitled officers or by the non-entitled officers who are

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willing to pay higher licence fee viz. 2/3 times the standard licence fee within 15 days from the date of receipt of the allotment order.

iii) Since we have accepted the statement made on behalf of the opposite parties that officers are willing to pay higher licence fee even though they are not entitled to higher type quarters, it would be the responsibility of the Deputy Director, ARC, Charbatia to ensure that none of the quarters remain vacant and they are occupied either by entitled officers and if entitled officers are not available, then by the non-entitled officers on payment of higher licence fee.

Subject to the compliance of the above mentioned directions, the petitioners are directed to vacate the quarters under their respective occupation within stipulated period stated above.

19. As regards payment of higher licence fee, viz. 2/3 times the standard licence fee as assessed over the petitioner by the concerned authority, we are of opinion that the petitioners had in good faith nurturing under a genuine impression that offer had been made by the administrative authority to the petitioners to occupy the quarters in question, and therefore, they are not liable to pay the higher licence fee viz. 2/3 times the standard licence fee. Such being the position, if the petitioners vacate the quarters in question within the stipulated period mentioned above, the administrative authority should not insist over the petitioners for payment of standard licence fee viz. 2/3 times the standard licence fee and they should be allowed to pay the normal rent as fixed earlier viz. Rs.125/- per month till they vacate the quarters, otherwise this order will



T. S. J. L.

become ineffective. The administrative authority would be at liberty to realise the higher licence fee viz. 2/3 times the standard licence fee from each of the petitioners by deducting the same from their salary if they do not comply with order directing them to vacate the quarters in their possession.

11. Thus all the three applications are disposed of accordingly leaving the parties to bear their own costs.

[Signature]
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VICE-CHAIRMAN

[Signature]
19.1.94
MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 19.1.1994 / B.K. Sahoo

19 JAN 94

