

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 17 of 1994

Date of Decision: 15.9.1994

Rabinarayan Mohanty

Applicant (s)

Versus

Union of India & Others

Respondent (s)

(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 ?

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(H. RAJENDRA PRASAD)

MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 17 of 1994

Cuttack this the 15th day of September, 1994

C O R A M:

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

Sri Rabinarayan Mohanty, aged about 33 years
son of Radhamohan Mohanty, working as
Civil Motor Driver, Gr-I, Interim Test Range
Chandipur, Dist: Balasore

Applicant/s

By the Advocate M/s. Ganeswar Rath
S.N. Mishra

Versus

1. Union of India, represented by its
Secretary to Ministry of Defence,
Rakhya Bhawan, New Delhi
2. Director, Interim Test Range,
At/PO: Chandipur, Dist: Balasore-756025
3. Works Project Group Officer,
Interim Test Range, Chandipur
Dist: Balasore-756025

Respondent/s

By the Advocate: Mr. Ashok Mishra,
Sr. Standing Counsel (Central)

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O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): Shri Rabinarayan Mohanty, Civil Motor Driver Grade-I, Interim Test Range, Chandipur, was allotted a Type-III quarter bearing No. P/108/3 on 28th April, 1988, because his entitled accommodation (Type-II) was not available at that point of time. He accepted the allotment/giving an undertaking that he would vacate the higher accommodation so allotted to him, as and when he is given an appropriate Type-II accommodation, at Chandipur or Balasore. On 23rd August, 1990, the applicant requested the authorities for a change of accommodation from the higher Type-III which he was occupying, to his entitled

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T. G. J. —

Type-II accommodation. The reason for seeking the change was that he was paying a higher rent for Type-III accommodation. On 22nd November, 1993, Shri Mohanty was allotted quarter No. P/118/2 which was as per his entitlement. But the official failed to shift to his allotted (entitled) accommodation. On 3rd December, 1993, orders were passed for charging penal rent from the same date. The applicant thereupon filed this application on 19.1.1994. While issuing notices to the concerned parties, the recovery of damage rent was stayed by this Tribunal. On 15th March, 1994, a notice was issued to Director, Interim Test Range, Chandipur, to appear before this Tribunal on 25th March, 1994, the next date fixed for hearing, alongwith certain records. Before the case came up for hearing on the date fixed for the purpose, it was represented on behalf of the Director that he would be unable to appear on the date fixed due to his official pre-occupations. On 23rd March, 1994, orders were passed that Shri A.Thyagraj, Sr.Administrative Officer, would appear along with the records on 31.3.1994. Thereafter, the case was listed for admission and hearing on 31st March, 7th April, 29th April, 11th May, 5th July, 1994. On 6th July, it was ruled that the personal appearance of Director or Senior Administrative Officer is unnecessary, since it was felt that there was no submission or argument which had to be made only personally by any of the respondents, and that all necessary submissions could equally be made by the learned Senior Standing Counsel

T. G. J. *[Signature]*

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on their behalf. The case was thereafter listed again on four successive dates and adjourned. It was finally heard on 6th September, 1994.

2. The main grievance of the applicant is that two of his juniors, S/Shri Tapan Kumar Ganguli and Niranjan Behera, Civil Motor Driver Grade-II and Fire Engine Driver, respectively, have been allowed to continue to reside in Type-III quarters at Chandipur while he has been asked to occupy a Type II quarter in Balasore. He argues that the junior-most among the three officials (including himself) should have been asked to shift to a Type-II quarter instead of asking a senior official like himself to do so.

3. The respondents admit that S/Shri Ganguli and Behera are junior to the applicant. They, however, explain that the quarters at Chandipur are earmarked for personnel manning certain key appointments or performing essential duties. It is further explained by the Sr. Standing Counsel that Shri T.K. Ganguli and Niranjan Behera are required to stay in Chandipur due to the nature of their duties. The respondents also mention that the applicant's presence is not regarded as essential at Chandipur. They add that Balasore is at a short, motorable distance from Chandipur Test Range and that adequate arrangements for transportation of staff have been made between the two stations. Finally, the respondents point out that, as per the allotment rules for Research and Development (Common Pool Residential Accommodation) 1992, a provision exists whereby an employee

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may prefer an appeal against any order to the Scientific Adviser to the Defence Minister and Director General R & D within 45 days of the receipt of any order by which he feels aggrieved. They point out that this provision has not been availed of by the applicant who has rushed to this Tribunal without exhausting any of the remedies available to him.

4. Inasmuch as two officials junior to the applicant have been allowed to retain a higher type accommodation (Type-III), the applicant has a ground for grievance. However, it cannot be disputed that the authorities can categorise certain appointments or persons as essential according to actual requirements, of which they are the best judges. It is explained by the respondents that the continued presence of the two junior officials at Chandipur is justified considering the essential nature of their duties.

5. It is true that the applicant had given an unequivocal undertaking that he would vacate the quarters on being allotted his entitled accommodation. But it is equally probable that such undertaking was obtained from the other two officials as well. The question, therefore, gets reduced to the single ground of seniority, since all the officials holding higher type of accommodation have given a similar undertaking. Viewed purely from this perspective, there is some merit in the applicant's argument. Nevertheless, balanced against this is the ^{prerogative} unquestionable available to the authorities to categorise

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certain appointments as essential. One cannot question such discretion.

6. Considering all circumstances of the case, it is directed that the applicant should comply with the order issued Vide Annexure-4 to the application within 15 days from this day.

7. As regards the penal rent, the applicant may submit a representation to the Scientific Adviser to Raksha Mantri and D.G. R & D within the same period and abide by any decision communicated to him in this regard. Until the applicant's representation is finally disposed of by the Scientific Adviser, no damage rent will be recovered from the applicant provided that he complies with the direction to vacate the quarters within 15 days as mentioned above.

Thus the application is disposed of. No costs.

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 (H. RAJENDRA PRASAD)
 MEMBER (ADMINISTRATIVE)

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