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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 352 of 1995

Cuttack this the 3rd day of April, 1996

Banshdhar Naik ... 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 Central Administrative Tribunal or not ? No,

N. SAHU
(N. SAHU)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

ORIGINAL APPLICATION NO. 252 OF 1995

Cuttack this the day of April, 1996

C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

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Bansidhar Naik,
aged about 36 years,
Son of Late Mana Naik,
at present working as Peon,
Doordarsan Kendra, Bhubaneswar,
AT: Doordarsana Colony
PO: Bhubaneswar-5
Dist: Khurda

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Applicant

By the Advocate:

M/s. C. Ananda Rao
S. K. Purohit
S. K. Behera
P. K. Sahoo

Versus

1. Union of India represented through Secretary, Information and Broad Casting Department, New Delhi
2. Director, Doordarsan Kendra Bhubaneswar, Dist: Khurda
3. Superintending Engineer, Doordarsan Kendra, Bhubaneswar, Dist: Khurda
4. Sri P. Swain, Messenger, Office of the Doordarsan Kendra Bhubaneswar-751005, Dist: Khurda

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Respondents

By the Advocate:

M/s. S. B. Jena
S. K. Das (Res-4)

Mr. Ashok Mohanty
Sr. Standing Counsel
(Res. 1 - 3)

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O R D E R

MR.N. SAHU, MEMBER (ADMN) : The prayer in this application is to quash Annexure-8, allotting quarters in favour of Respondent 4, Shri P. Swain, Messenger, Office of Doordarsan Kendra and also to quash Annexures-3, 4 and 6, directing the applicant to vacate the quarters. The applicant is a Peon in Door Darsan Kendra, Bhubaneswar. He was allotted A Type Quarter bearing No.A 8/2 from 1.4.1993. He submitted his quarter eviction report on 19.12.1994, but within four days he withdrew the same. Without considering his withdrawal application dated 23.12.1994, Respondent 3 directed the applicant to vacate the Staff Quarter No.A 8/2 immediately. This direction was repeated in another letter dated 24.4.1995 and 3.5.1995. In spite of repeated representations his request was not considered. On 9.5.1995, he was informed that the said quarter had been allotted in favour of Respondent 4. He was directed to handover possession of the said quarter to Respondent 4. The applicant's grievance is that instead of taking recourse to the procedure laid down in the Public Premises Eviction Act, the authorities have taken the steps on their own to vacate the quarters.

2. In the counter-affidavit filed by the Director, Doordarsan Kendra, it is stated that the applicant was not staying in the quarters allotted to him with his family members and this quarter was sublet to Res. 4, without the permission of the office. The withdrawal of the quarter eviction report on 19.12.1994 was not accepted because had sublet the quarter without

permission. It is true penal rent could have been charged and forcible eviction for overstayal could have been initiated, but seeing the financial status of the applicant he was simply asked to vacate the quarters.

3. In the counter-affidavit filed on behalf of Respondent 4, it is stated that the applicant had never resided with his family in the said quarter. It is also averred by Respondent 4 that from the beginning he had sublet the quarters and collected rent therefrom and this was in violation of Clause 7 of the Allotment Order under which sharing the quarters or subletting the same without prior permission of the concerned authorities ^{renders the} ~~the~~ initial allotment liable for cancellation. It is also mentioned that the petitioner's pay has by now reached Rs.950/- and he is entitled to a higher type of accommodation.

4. The learned counsel for the applicant cited the decision of the Supreme Court reported in AIR 1989 1083. He wants to submit that the withdrawal of vacation report before the intended date of vacation is in order and should have been accepted as in cases of resignations. He also stated that no notice was given to the applicant before he was asked to vacate. In the rejoinder filed, the applicant states that he hoped to get a B type quarter as per his seniority by the end of December, 1994. With that hope he signed the application form given by

Respondent 4. He further came to know that there was no possibility of his securing a B type quarter and soon thereafter he withdrew his quarter eviction report and requested for maintenance of status quo.

5. I have carefully considered the submission of rival counsel. The fact remains that the applicant had sublet the quarter. This is a statement made by Respondent 4 and Respondent 2. This was not specifically denied by the applicant even though an opportunity was given to him on 16.2.1996. The allegations of Respondent 4 are that the applicant had been subletting the quarters to various other persons also and collected rent therefrom. The other fact is also that he never stayed with his family in that quarter. Irrespective of other merits of the claim about the withdrawal of the vacation report, I hold that the respondents are justified in directing immediate vacation of the quarters. By subletting the quarters and thereby committing an infraction of the rules governing the terms of allotment, the liable applicant rendered himself liable not only to cancellation of allotment and evicting of quarters, but to sterner terms of punishment for improper conduct as a Government servant. He should be thankful that he was simply asked to vacate the quarters. A person who wantonly violates a rule cannot seek protection from any other proceeding. The allotment order stands cancelled in the applicant's name not only because he had given a vacation report but

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also because he violated the terms and conditions
of allotment of quarters.

In view of the matter, there is no merit
in this application. The same is dismissed. No costs.

Barasinha, M.
(N. SAHU)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//