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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 222 OF 1999

Cuttack, this the 23rd day of September, 1999

Balu Maharana Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

23.9.99
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.9.99

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

Advocates for applicant - M/s Manoj Misra
D.K.Patnaik
A.K.Nayak
S.Senapati.

Vrs.

1. Union of India, represented by its Secretary, Department of Defence, New Delhi.
2. Garrison Engineer (P), Chilka, PO-N.T.C., Chilka, District-Khurda.
3. Barrak Store Officer (P), Chilka, PO-NTC Chilka, District-Khurda..... Respondents
Advocate for respondents-Mr.A.K.Bose,Sr.CGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order dated 7.5.1999 at Annexure-5 and also for a direction to the respondents to allot Type-II quarters in favour of the applicant in which he is now residing.

2. The applicant's case is that he was appointed as a Carpenter in the office of Garrison Engineer (P), Chilka (respondent no.2) in 1981. In 1996 in order dated 5.7.1996 (Annexure-2) he was granted permission to share the quarters of one Balchand who had been allotted

Type-II Quarters No. P159/4. Accordingly, the applicant shared the quarters of Shri Balchand and stayed in a portion of the quarters for a period of three years. Shri Balchand whose quarter the applicant was sharing retired from service on 31.12.1998. After retirement of Shri Balchand this Type-II quarters was allotted in favour of the applicant. One R.C.Nayak, who was working as a Mate, was granted permission to share the quarters with the applicant in the order dated 23.1.1999 at Annexure-3.. On 26.3.1999 the applicant submitted a petition before respondent no.2 stating that his wife is suffering from illness and as per doctor's advice she needs prolonged treatment and therefore he is unable to give sharing of his quarters to anybody and he prayed that the sharer's allotment in favour of R.C.Nayak be cancelled and the entire quarters may be allotted to him. This representation is at Annexure-4. In spite of his representation no consideration was shown to him and two months later in order dated 7.5.1999 respondent no.2 passed an order giving allotment of a Type-I quarters in favour of the applicant. This is the impugned order at Annexure-5. In the context of the above facts, the applicant has come up with the prayers referred to earlier.

3. Respondents in their counter have stated that the full Type-II quarters was never allotted to the applicant. He was initially allowed to stay on sharing basis with one Balchand. The portion vacated by Shri Balchand on his retirement was allotted to Shri R.C.Nayak on sharing basis. In other words, both the applicant and Shri R.C.Nayak were allotted the quarters on sharing basis. The respondents have also stated that vacant full quarters was not available till May 1999 and therefore

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full quarters could not be allotted to the applicant. But a full quarters Type-I fell vacant in May 1999 which was on the ground floor and the same was allotted to the applicant. It is stated that the applicant is not the seniormost person in the waiting list for Type-II quarters. Therefore he cannot be allotted a full Type-II quarters overlooking his seniors in the waiting list as this will cause great injustice to such persons. It is also submitted that in consideration of the illness of his wife Type-I quarters allotted to the applicant is on the ground floor whereas the Type-II quarters which he was earlier occupying on sharing basis was on the first floor. It is further stated that in the waiting list for allotment of Type-II quarters the applicant is at serial no.19. On the above grounds, the respondents have opposed the prayer of the applicant.

4. The applicant has filed MA No.458 of 1999 with copy to the other side. It was indicated by the learned counsel for the petitioner on 28.7.1999 that the MA may be taken up along with the OA. We have also therefore heard the learned counsels for both sides on the MA. In the MA the applicant has prayed for staying the operation of the order at Annexure-5 as also the operation of the order at Annexure-A of the MA. This order is dated 22.7.1999 in which the applicant has been asked to vacate Type-II Quarters No.P159/4 by 31.7.1999. It has also been indicated that in case of his failure market rent at the rate of Rs.2500/- per month will be charged from August, 1999.

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5. We have heard Shri M.Mishra, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the records.

6. It has been submitted by the learned counsel for the petitioner that Type-I quarters allotted to the applicant is less spacious than the Type-II quarters which he is occupying and therefore he should not have been allotted Type-I quarters. This contention is without any merit because the applicant was never allotted the entire Type-II Quarters No. Pl59/4. The applicant has stated in paragraph 4.4 of his petition that after retirement of Shri Balchand, the Type-II quarters was allotted in his favour. Respondents in paragraph 3 of the counter have specifically denied this and stated that both the applicant and R.C.Nayak were allotted the quarters on sharing basis and prior to that Shri Balchand and the applicant were sharing the quarters. The respondents have also pointed out that even though the applicant is entitled to get a Type-II quarters, his position in the waiting list for allotment of Type-II quarters is at serial no.19 and obviously therefore a full Type-II quarters cannot be allotted to him. For allotment of quarters people have to wait for long years and therefore it would not be in the interest of administration to allow a person to jump the queue and get a Type-II quarters allotted before his turn comes only on the ground that he was sharing a portion of it earlier. In consideration of the above, we hold that the applicant has not been able to make out a case for allotment of Type-II Quarters No. Pl59/4 exclusively to him. The applicant had himself represented that he is not in a position to share the quarters because of illness of his wife and therefore the respondents have allotted a full Type-I quarters to him in the order at Annexure-5. We find nothing wrong in the allotment of Type-I quarters exclusively to the applicant moreso when it is on the ground floor.

7. In view of our above conclusion, it is not necessary to pass a separate order on MA No. 458/99.

8. In consideration of all the above, we hold that the applicant has not been able to make out a case for quashing Annexure-5. The Application is therefore held to be without any merit and is rejected but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
23.9.99
VICE-CHAIRMAN

AN/PS