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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.286 OF 1999.
Cuttack, this the 23rd day of August, 2000.

Smt. Sulechana Benia. Applicant.
-Vrs.-
Union of India & Ors. ... 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.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
25.8.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 286 OF 1999.
Cuttack, this the 23rd day of August, 2000.

CORAM :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

Smt. Sulachana Benia,
Aged about 42 years,
W/o. Late Rama Chandra Benia,
Working as Gowala,
Central Cattle Breeding Farm,
Residing in CCBF Colony,
At/Po: Sunabeda-2,
Dist. Koraput.

Applicant.

By legal practitioner: M/s. K.C. MISHRA,
D.P. Dhalsamant,
Uttam Misra,
Advocates.

- Versus -

1. Union of India represented
through the Secretary,
Ministry of Animal Husbandary and
Diarying Krishi Bhavan,
New Delhi.

2. Director,
Central Cattle Breeding Farm,
At/Po: Sunabeda-2,
Dist: Koraput.

... Respondents.

J Som. By legal practitioner: Mr. A.K. Bose, Senior Standing Counsel.

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

This Original Application has been taken up along with Miscellaneous Application No. 204/2000. Prayer in this M.A. filed on 24.3.2000 is for a direction to the Respondents to allow the applicant to continue in her present qrs. till a ground floor type-I qrs. falls vacant and is allotted to her. It is submitted by Mr. A. K. Bose, learned Senior Standing Counsel that on 5.5.2000, the applicant has already vacated the qrs. which was in her occupation and has shifted to a Type-I qrs. We also note that on 29.6.1999 we had stayed the order of recovery of damage rent from the applicant on condition that she should vacate her present qrs. by 31.8.1999 and only on her vacation of the present qrs. the order of recovery was stayed. As the applicant had filed MA on 21.3.2000 praying for a direction to the Departmental Authorities to allow her to continue in her present qrs. obviously she had not vacated her present qrs by 31.8.1999. In view of this, we hold that the MA is without any merit and the same is rejected.

2. In the OA the applicant has come up with a prayer for quashing the order at Annexure-A/2 and also for a direction to the Departmental Authorities to allot a ground floor type I qrs in favour of applicant and till such allotment she has prayed that she should be allowed to stay in the present qrs by paying the prescribed licence fee of Rs. 267/- per month. The admitted position is that the applicant's husband was working as an employee under the Respondents and he died while in service. The applicant was given a job of Gowala on compassionate ground even though she was overaged and inexperienced and according to

Rules, she was allowed to stay in the quarters occupied by her husband for one year but thereafter, she continued in the said qrs. Respondents had asked her to vacate the qrs and go to a type I qrs to which she is entitled to but the applicant wanted to remain in the said qrs which was allotted to her husband on the ground that she is ill and had undergone an operation and therefore, she can not move to a type I qrs. which is not in the ground floor. She therefore, wanted that a ground floor qrs. should be allotted to her. After her prayer was rejected and she was intimated that if she does not shift to a type I qrs to which she is entitled according to her pay, damage rent will be charged. Accordingly in order dated 31.5.1999, at Annexure-A/20, damage rent was charged to her from June, 1999 to August, 1999. Respondents in their counter have opposed the prayer stating that according to rules, she was allowed to occupy the qrs. occupied by her deceased husband for a period of one year and even thereafter, but as there are many other persons entitled to type II qrs. the applicant was asked to shift to type-I qrs. to which she is entitled to but she did not shift to the qrs. On the above grounds, the Respondents have opposed the prayers of applicant.

3. From the pleadings of the parties we find that the applicant had earlier filed a Civil suit before the learned Civil Judge, Jr. Dn. Koraput in which she had prayed for restraining the Departmental Authorities ^{from} ~~evicting~~ her from the quarters occupied by her husband. Learned Civil Judge, in his order dated 15.5.1999 dismissed the said suit being not maintainable. Thereafter, the applicant had approached this Tribunal. Instructions are very clear that if a Govt. servant dies in harness his family is entitled to retain the qrs for one year or till the date of

superannuation of the deceased employee whichever is earlier. In this case, the applicant has been allowed to occupy the qrs. of her deceased husband for more than one year. She has also been given a compassionate appointment and after getting the compassionate appointment she has to shift to the qrs. according to her pay and entitlement. In consideration of the above, we find no justification in the prayers of the applicant that she should be allowed to continue in a higher type of quarters allotted to her husband. This prayer, is therefore, held to be without any merit and is rejected. We also note that the Respondents have given to the applicant many chances to vacate the quarters and to go to a Type I quarters but she has not done so. She had in the contrary approached to the learned Civil Court and after she had failed in the Civil Court, she has come to this Tribunal. We find no justification to quash the order at Annexure-A/2 in which damage rent was imposed on her, according to Rules. This prayer is also rejected.

4. In the result, therefore, the application is held to be without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.