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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 73 OF 1999
Cuttack, this the 18th day of May, 2000

Pradeep Kishore Ray 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*.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *2000*

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 73 OF 1999
Cuttack, this the 1st day of May, 2000

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Pradeep Kishore Ray, son of late Govind Prasad Ray, aged 45 years, working as SS (O) in the office of DET Coaxial Telephone Bhawan
Applicant

Advocate for applicant - Mr.S.P.Mohapatra

Vrs.

1. Union of India, represented through Director, Maintenance, ETR Old M/W Building, Bhubaneswar-12.
2. D.E.T., Coaxial Maintenance, ETR, Telephone Bhawan, Bhubaneswar-1.
3. C.G.M.T., Maintenance, ETR-7, Khetrabas Lane, Calcutta.

...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 a direction to the respondents to allot him a Type-III quarters on the ground of his salary and length of service. He has also asked for punishing the respondents and granting financial help to him in lieu of Type-III quarters as also cost of Rs.50,000/-.

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2. According to the applicant, he had earlier approached the Tribunal in OA No.422 of 1994, decided on 14.7.1994. This order is at Annexure-2. The Tribunal directed that the applicant should file a representation containing full facts and the basis of his request for allotting a higher type of quarters, to Chief General Manager, Telecom, Orissa Circle, with copy

to respondent nos.1,2 and 3 in the above OA. It was further ordered that the representation if filed should be disposed of within 45 days and result communicated to the applicant. After the above order the applicant gave several representations to the departmental authorities and followed up the same by sending pleader's notice but no favourable order was passed in his case. The applicant has stated that one D.Pradhan is in possession of a Type-III quarters and is going to be transferred and the same should be allotted to him. He has also stated that according to rules and regulations he is entitled to allotment of Type-III quarters. In the context of the above facts he has come up with the prayers referred to earlier.

3. Respondents in their counter have stated that as per procedure the applicant is required to submit application for allotment of quarters in prescribed form during March of every year for allotment of quarters or change of quarters. In the present case the applicant has not submitted any annual application form. It is further stated that the applicant was allotted a Type-II quarters on compassionate ground due to death of his father who was an employee of office of CGMT, Orissa/GMT, Bhubaneswar. On his representation for allotment of Type-III quarters, Director, Maintenance (respondent no.1) has informed him in letter dated 15.1.1999 (Annexure-7) to apply to CGMT, Orissa, through proper channel. He has also been informed that no Type-III quarters in General Pool is available in

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Bhubaneswar. It has also been informed that the quarters occupied by D.Pradhan, ex-ITO is yet to be vacated and is a post-quarters which cannot be allotted to person getting quarters in General Pool. It is further stated that the applicant is not entitled to Type-III quarters as he is drawing basic pay of Rs.5250/- and as per amendment to the relevant rules brought out in Notification dated 12.11.1998, Type-III quarters are to be allotted to those having pay between Rs.5500/- and Rs.8500/-. On the above grounds, the respondents have opposed the prayers of the applicant.

4. The applicant has filed a voluminous rejoinder in which he has stated that admittedly he had not submitted a representation to CGMT as ordered by the Tribunal in the earlier case. But under the rules he is entitled to Type-III quarters and therefore he should be allotted the same. He has further stated that 37 other employees have been allotted quarters even though they have not applied in the prescribed form. But in the applicant's case it has been wrongly stated that because the applicant has not submitted the application in the prescribed form he has not been allotted with Type-III quarters. The applicant has enclosed a list of 37 employees who have been allotted quarters even though they have not submitted application in proper form.

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5. The respondents have filed a counter to the rejoinder in which they have reiterated that in September 1999 the applicant's basic pay came to Rs.5375/- against the minimum requirement of Rs.5500/-. In the matter of 37 employees who have been allotted with quarters it has been stated that they have been allotted post-quarters and for post-quarters applications

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are entertained in plain paper. The petitioner is entitled to pool quarters and for this he has to apply to CGMT/GMT through proper channel in scheduled time. On the above grounds the respondents have opposed the prayers of the applicant.

6. We have heard Shri S.P.Mohapatra, 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. The learned Senior Standing Counsel has filed copy of amendment to SR 317 dealing with entitlement for different types of quarters along with certain other documents which have also been taken note of.

7. In the earlier OA No.422 of 1994 which was disposed of on 14.7.1994 the Tribunal did not order that the applicant should be allotted with a Type-III quarters. As a matter of fact the Tribunal had clearly indicated in the second line of their order that it was not clear from the application whether the applicant is entitled to a higher type of quarters and if so whether he has opted to accept one type below his entitlement. In the above case the direction was merely to the applicant to file a representation giving full facts and basis of his claim to CGMT, Orissa Circle. It was also directed that CGMT should dispose of the representation strictly in accordance with rules within a period of 45 days. Admittedly, after disposal of this application on 14.7.1994 the applicant has not filed a representation as directed in the above order. Therefore, the decision in the earlier OA which was only for consideration of his representation does not go to help the applicant in

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any way.

8. The applicant has admitted in his rejoinder that he has not filed a representation to CGMT in pursuance of the order of the Tribunal in the earlier OA. But he has claimed that his right to get a Type-III quarters cannot be taken away by his failure to file a representation. Admittedly, the applicant is in occupation of a Type-II quarters. The respondents have pointed out and enclosed the amended rule under which for Type-III quarters a person getting less than Rs.3500/- but not less than Rs.5500/- per month is entitled. From the application of the petitioner submitted on 27.3.1999 it is seen that his basic pay is only Rs.5250/-. This application has been filled up by the petitioner himself and therefore it is clear that in March 1999 his pay was Rs.5250/-. The respondents have stated in their pleadings that in September 1999 the applicant's pay became Rs. 5375/-. Thus he is not entitled to a Type-III quarters on the basis of his salary and his prayer for allotment of a Type-III quarters is therefore held to be without any merit.

9. But while doing so it must be noted that the respondents are following a peculiar practice of making the Government servants apply every year afresh for the type of quarters. In all other Departments the universal practice is that a Government servant makes an application for allotment or change of quarters and his name is put in the waiting list in case he is so entitled or in case he is not entitled his application is rejected and the applicant is informed of the same. To our knowledge there is no system in any

other Department requiring the employees to apply every year. In view of this, it is directed that the petitioner's application dated 27.3.1999 should either be disposed of in accordance with rules if the same has not been done or his name should be kept in the waiting list for consideration for allotment of Type-III quarters if he becomes entitled to the same. His first prayer is accordingly disposed of.

10. The second prayer of the applicant is for punishing the respondents for not allotting him a Type-III quarters. As the applicant is not entitled to Type-III quarters there is no question of punishing the respondents for not allotting him a Type-III quarters. In any case in an OA the fault of the respondents, if any, cannot be taken up for consideration. Question of punishing the respondents comes only in case of contumacious conduct in disobeying or violating any order of the Tribunal. That is not the case here. The third prayer is for awarding cost of Rs.50,000/-. In view of my findings with regard to the first prayer, the prayer for cost is also rejected.

11. In the result, the Original Application is disposed of in terms of the observation and direction above. No costs.

Somnath Som
(SOMNATH SOM)

1.5.2000
VICE-CHAIRMAN