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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 337 OF 2000.
Cuttack, this the 25th day of June, 2001.

Sri Upendranath Naik. Applicant
- Versus -
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)

S. SOMNATH SONG
VICE-CHAIRMAN
25-6-2001.

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ORIGINAL APPLICATION NO: 337 OF 2000.
Cuttack, this the 25th day of June, 2001.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAI RMAN

AND

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

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Shri Upendranath Naik, Aged about 54 years,
Son of late Raghunath Nayak, permanent resident
of Dantuni, PO: Bireswarpur, Dist. Mayurbhanj, at
present working as Assistant Engineer, Office
of the Postal Civil Sub Division, Bhubaneswar
at PMG.

: Applicant.

By legal practitioner: M/s. D. Mohapatra, J. R. Dash, Advocate.

- Versus -

1. Chief General Manager, Telecom, at Bhubaneswar, PMG Square, Bhubaneswar, Dist. Khurda, Office of the Chief Postmaster General, Orissa Circle,
2. Chief Postmaster General, at Bhubaneswar PMG Chhak, Office of the Chief Postmaster General, Bhubaneswar, Dist: Khurda.
3. Chief Postal Circle, GPO Complex, Meghdoot Building, 64 Patna, At. Patna.
4. Executive Engineer(Postal), Civil Division, Cuttack-3, At. Professorpada, College Square, Cuttack.

: Respondents.

SJom. By legal practitioner: Mr. J. K. Nayak, Additional Standing Counsel.

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O R D E R

MR. SOMNATH SOM, VICE CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act,1985, the applicant has prayed for quashing the order dated 9.5.2000 at Annexure-5 (wrongly mentioned by the applicant in his petition at Annexures 4&5) and also for a direction that the applicant is entitled to hold the quarters in his occupation under the same terms and conditions without any liability to pay any penal and market rent. Respondent No.1, the Chief General Manager, Telecommunications and Respondent No.2 the Chief Postmaster General have filed separate counters. Applicant has filed rejoinder to the counter filed by Respondent No.1. For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that the applicant was working as Assistant Engineer (Civil) Telecom. Department and was posted as Assistant Surveyor of works Telecom Civil Circle Bhubaneswar. He joined that post on 7.6.1997 and was allotted Type-IV Qrs. bearing IV-7 in Central Telecom Training Circle Colony, Vanibihar Bhubaneswar. The allotment order is at Annexure-1. In order dated 11.6.1999 at Annexure-2, he was transferred to the Postal wing and joined as Assistant Engineer Postal Civil Sub Division, Bhubaneswar on 16.6.1999. His earlier post under the Telecom. Department and the present post in Postal Department are in the same station. After he joined the Postal Department, the authorities of the Telecom Department in their letter dated 19.7.1999 (Annexure-3) directed him to vacate the quarters within a fortnight failing which penal rent will be imposed on him. He filed a representation on 15.12.1999 which was

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rejected by Respondent No.1 in order dated 9.5.2000 at Annexure-5. Being aggrieved with the above and in the context of the above facts, he has come up with the prayers referred to earlier. The stand of the applicant is that originally the Posts and Telegraph was one Department which was bifurcated in 1984. At the time of bifurcation a circular was issued on 5.6.1985 (Annexure-4) in which it was stated that P&T (Civil) wing is being bifurcated between the Departments of Posts and Telecommunications and Officers and staff are being allocated to the two Departments. It is stated that some of the officers and staff of Civil wing allotted to one Department may be occupying Government accommodation belonging to other Department. It is stated that a decision has been taken that in such cases, the concerned officers and staff will be allowed to retain their present accommodation until the Department to which he was posted provides them with Govt. accommodation. Such officers may be given priority in allotment of accommodation by their respective Deptts. Applicant has stated that by virtue of this circular, he is entitled to retain the quarters allotted to him by the Telecom authorities on the same terms and conditions even after his transfer and posting under the Department of Posts. It is also stated that a similar matter came up before the Patna Bench of the Tribunal in OA No. 84/1992 and the Tribunal held that in such cases, the employee who has been transferred from one wing is entitled to retain the quarters till he is allotted a quarters by the wing to which he has been transferred. Respondent No.1 in his counter has taken the stand that this circular was issued in 1985 at the time when the Civil wing was being bifurcated between the two Departments and this

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circular was meant to cover the transitional period and has no application more than 15 years after the bifurcation has actually taken place.

2. We have considered the above rival submissions carefully. The decision of the CAT, Patna Bench is by a decision of Single Bench. A similar point raised by the present petitioner before us came up before this Bench in OA No. 319 of 2000 - T.K. Biswas vrs. UOI and Others. In that case also the applicant was transferred from Telecom wing to the Postal wing and prayed for retention of the quarters of Telecom Department. The decision of the Patna Bench in OA No. 84 of 1992 which was disposed of by a common order dated 17.7.1992 by a single Bench of CAT, Patna was filed in OA No. 319/2000 at Annexure-7. After taking note of the above decision, it was held that the circular of 5.6.1985 is not applicable for all times. It was meant only to meet the immediate resultant situation arising out of bifurcation of the Civil wing between two Departments. In the instant case applicant joined the post of Assistant Surveyor of Telecom Civil Circle, Bhubaneswar on 7.6.1997 much after the bifurcation. He was allotted the quarters in March, 1998 and was transferred from Telecom wing and joined the postal wing on 16.6.1999. All these are much after the bifurcation. The circular dated 5.6.1985 is ^{not} meant for all future transfers of officers from one wing to another wing. This is a view we have taken in OA No. 319/2000 and we find no reason to differ from the view earlier taken by us in the above OA.

3. In view of the above, we hold that the OA is without any merit and the same is rejected. Stay order granted stands

vacated. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.

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(SOMNATH SOM)
VICE-CH~~AI~~SMAN (6.270).