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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 1216 of 2003
Cuttack, this the 5th day of November, 2004

Sri Kangresh Bhola. Applicant.
Versus
Union of India & Ors. Respondents.

FOR INSTRUCTIONS

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

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 05/11/2004

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.1216 of 2003
Cuttack, this the 5th day of November, 2004

CORAM:

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.).

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Shri Kangresh Bhola,
aged about 38 years,
S/o. Ananta Bhola,
permanent resident of
At/Po: Badaborsingi,
Via: Gobora,
Dist. Ganjam,
at present working as Khalasi,
Office of Executive Engineer,
Bhubaneswar Central Electrical Division,
CPWD, Plot No. 3-A, Unit-8, Bhubaneswar-12,
District-Khurda.

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Applicant.

By legal practitioner: M/s. K. C. Karungo,
B. Das,
C. Padhi,
S. Behera,
Advocates.

-Versus-

1. Secretary to Govt. of India,
Ministry of Urban Development,
New Delhi-1.
2. Director General of Works,
CPWD, Nirman Bhawan, New Delhi-1.
3. Director of Estate, Govt. of India,
Nirman Bhawan, New Delhi-1.
4. Executive Engineer, Bhubaneswar Central
Division No. 3, CPWD, Nayapalli, Unit-8,
Bhubaneswar-12, Dist. Khurda.
5. Executive Engineer, Bhubaneswar Central
Electrical Division, CPWD, Plot No. 3-A,
Unit-8, Bhubaneswar, Dist. Khurda.

... Respondents.

By legal practitioner: Mr. J. K. Nayak, Addl. St. Counsel.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Applicant Kangresh Bhola, a Khalasi engaged under the Executive Engineer (Bhubaneswar Central Electrical Division, CPWD) stationed at Bhubaneswar (in the revenue District of Khurda) of Orissa having been denied of allotment of a Type-I quarters (by applying the principle of one type below to his actual entitlement i.e. from Type-II to Type-I) has filed this Original Application with prayer for quashing of the orders under Annexure-5 dated 23-09-2003 and Clause-IV of Annexure-6 dated 01-09-2004; wherein the request of the Applicant for allotment of a Type-I quarters was turned down by the Respondents Department.

2. Respondents, by placing a reply/counter to the Original Application, have clarified that during October, 2002 (as per his entitlement) the Applicant was allotted with a Type-I quarters; but he did not accept the same (on the ground that his pay with effect from March, 2002 had been upgraded under the ACP scheme to Rs. 3125/- and that is why he was entitled for allotment of a quarters higher than Type-I and, as such, his request, in the said regard, has been turned down.

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3. Having heard learned counsel for both sides and, on perusal of the material placed on record, it is seen that the Government of India issued various instructions/framed Rules with regard to allotment of quarters (reported in FR & SR Part-I); wherein the entitlements of Government quarters have been codified as under:-

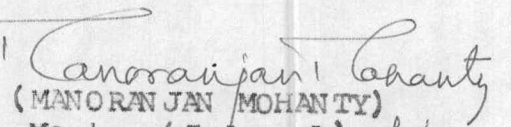
<u>PAY RANGE</u>	<u>ENTITLED TYPE</u>
Rs. 2,550-3,049/-	I
Rs. 3,050-5,499/-	II
Rs. 5,500-8,499/-	III
xxx	xxx

Therefore, it is an admitted fact of the parties that as per the pay range, one is entitled for allotment of quarters. But it is no doubt true that there are Government instructions/Rules that on the request of a Government servant, one type below the entitlement type quarters can be allotted by the Authorities; provided no quarters (as per the entitlements) are available and none is available for allotment of the below type quarters. In other words, where there is surplus quarters in the lower type accommodation the authorities can provide lower type quarters to an employee, though he/she is entitled higher class accommodation. It is also seen that the Respondents have categorically averred that there are many persons

above the Applicant in the waiting; for allotment of quarters and, as such, if at all surplus quarters in the lower category are available then option can be given to the seniormost person waiting for allotment of the quarters.

4. There are also no averment that vacant surplus quarters (in type-I) are available and that none are eligible to take the same. In case direction is given for allotment of the Type-I quarters in favour of the Applicant then another employee who is eligible for allotment of Type-I quarters and is waiting for the same, will naturally be deprived of getting a quarters. In regard to the prayer for a direction for allotment of quarters, the Applicant cannot claim to take the same according to his choice; especially when he had once refused to take a Type-I quarters. Even if rule of one type below allotment of quarters is available; that cannot be applied when others are waiting for allotment of the below type quarters.

5. In the above said premises, no merit being found in this O.A., the same is hereby dismissed. No costs.


(MANORANJAN MOHANTY)
Member (Judicial) 05/11/2004