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O.A.No.326 of 2009

Suresh Kanta Pradhan Applicant
Versus
Union of India & Others Respondents
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Order dated: 23-03-2010

C O R A M

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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Applicant who is working as Junior Clerk (in the scale of pay of Rs.4500-7000) under the Chief Engineer, E.Co.Rly, Bhubaneswar and residing in Quarter No.3-D, Type III, New Railway Colony, near Kanchanjanga Apartment, PO. Chandrasekharpur, Bhubaneswar, Dist. Khurda/Orissa in this Original Application seeks to quash the letter under Annexure-A/3 dated 11.03.2009 by which he was allotted the quarters Type II E/5, Kanchanjanga Colony and the letter under Annexure-A/5 dated 23.07.2009 by which he was asked to vacate the Type III quarters which is now under his occupation and occupy the Type II quarters allotted in his favour under Annexure-A/3 within seven days failing which D&A action will be initiated against him. According to him he is in the occupation of the Railway quarters No.3-D, Type III, New Railway Colony, Bhubaneswar on the recommendation of the quarters committee. Further his stand is that as per the scale granted to him under ACP he is also entitled to Type III quarters. But without considering such fact, he has been allotted with one type below quarters. Accordingly, he prayed for issuance of the relief claimed in this OA.

2. Respondents filed their counter stating therein that the substantive post of the applicant is Junior Clerk in the scale of pay of Rs.3050-4590(RSRP). Thereafter, his pay was upgraded to Rs.4500-7000/- (RSRP) by way of first up-gradation under ACP Scheme w.e.f. 12.1.2004 vide Office order No.350/2005 and on the recommendation of the VIth CPC he was

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- 2 -

placed in the revised scale of pay of Rs.12,730/-. On 31.3.2004 applicant was allotted with a transit quarters No. No.3-D, Type III, New Railway Colony, near Kanchanjanga Apartment, PO. Chandrasekharpur, Bhubaneswar. This quarters was converted to Railway accommodation vide Memorandum No.3676 dated 28/29.01.2008 and the Departmental quarters committee was advised to allot the quarters to the present occupants if they are otherwise eligible and if the occupants are not eligible to Type III quarters, DQC should allot entitlement quarters to the occupants. The DQC considered the case of the Applicant and others. Taking into consideration the provisions (Establishment Sl.No.288/99) in which it has been provided that "financial up-gradation as personal to the incumbent for the stated purposes and restriction of the ACP scheme for financial and other benefits such as sanction of advances including House Building Advances, allotment of Government accommodation, issue of privilege and other passes only without conferring any privilege related to higher status, allotted one Type II quarters nearer to the quarters in which the applicant is residing. Accordingly, it has been claimed by the Respondents as the applicant does not fulfill the conditions of scale of pay for being allotted the Type III and the financial up-gradation under ACP cannot entitle him to claim benefit of allotment of quarters, this OA is liable to be dismissed. Applicant, by filing rejoinder, has stated that the Respondents only to deprive the applicant of the Type III, have unnecessarily misinterpreted the provisions of the Establishment and has accordingly tried to establish the interpretation to confuse the entire matter.

3. Heard learned counsel for both sides and perused the materials placed on record. The only question that needs clarification by this Tribunal is whether Rule of the Railway permits that allotment of the quarters should be in accordance with the scale of pay one has got under ACP. In this connection

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- 3 -

it would suffice to quote the provisions made by the Railway Board in RBE No.101/2009 dated 10.06.2009 which provides as under:

“16. On grant of financial up-gradation under the Scheme, there shall be no change in the designation, classification or higher status. However, financial and certain other benefits which are linked to the pay drawn by an employee such as HBA, allotment of Government accommodation shall be permitted.”

4. In view of the above I have no hesitation to hold that the provisions made clause 6(c) of Estt. No.288/99 only debars an employee to get the privilege of invitation to ceremonial functions, deputation to higher posts etc. in the event of getting the higher pay under ACP but that would be reckoned for the purpose of allotment of Railway accommodation and the consideration for allotment of railway accommodation is based on the scale one is getting irrespective of the position whether he/she is a clerk or Junior Engineer etc. when the accommodation is opened for allotment to all employees in the Railway. Since this was the only constraint for allotment of the quarters in question to the applicant, in view of the discussions made above, I have no hesitation to hold that the Applicant is entitled to the Type III accommodation in which he is residing and the Respondents shall issue necessary allotment order in his favor at an early date preferably within a period of 15(fifteen) days of receipt of this order. In view of the directions made above, the order under Annexure-A/3 & A/7 is hereby quashed.

5. In the result, this OA stands allowed to the extent stated above. No costs.


(C.R. MOHAPATRA)
Member (Admn.)