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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O. A. No. 260/00601 OF 2016**  
**Cuttack, this the 1<sup>st</sup> day of November, 2016**

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**HON'BLE MR. A.K. PATNAIK, MEMBER (J)**

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Sri Anil Kumar panda, aged about 50 years, Son of Sri Ganga Prasad Panda, Permanent resident of Town hall Road, Berhampur, Dist-Ganjam and presently working as Audit Officer, Office of the Sr. DAG(ES-II), Puri and residing at Type-IV-CI/10, Unit-IV, Old A.G. Colony, Bhubaneswar.

...Applicant

(By the Advocate-M/s. S.K. Ojha, S.K. Nayak)

**-VERSUS-**

**Union of India Represented through**

1. Comptroller and Auditor General of India, Pocket-9, Deen Dayal Upadhyay Marg, New Delhi-110124.
2. Principal Accountant General (E & RSA), AG Square, Bhubaneswar, Dist-Khurda, Odisha, PIN-751001.
3. Principal Accountant General(G&SSA), AG Square, Bhubaneswar, Dist-Khurda, PIN-751001.
4. Senior Deputy Accountant General (ES-II), Puri, At/PO/Dist-Puri.

...Respondents

By the Advocate- Mr. S.K. Patra

**ORDER (ORAL)**

**A.K.PATNAIK, MEMBER (JUDL.):**

Heard Mr. S.K. Ojha, Ld. Counsel appearing for the applicant and Mr. S.K. Patra, Ld. Standing Counsel appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the Speaking order dated 25.02.2016 and Office Order dated 09.02.2016, issued by the Sr. DAG/Admn. & Audit Officer/Admn. Communicating the decision of the Respondent No.2 regretting the prayers of the applicant for his retransfer to Bhubaneswar and retention of quarters at Bhubaneswar on his transfer to

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Puri. Further, the applicant has also assails the lethargic attitude of Respondent No.3 for non-consideration of his grievance ventilated as per his representation dated 28.07.2016 made with reference to the C&AG of India, New Delhi letter dated 13.07.2016 issued specifically for the purpose of retention of quarters at Bhubaneswar by the employees transferred & posted in various branch offices within Odisha.

3. Mr. Ojha submitted that this is the 3<sup>rd</sup> round of litigation and in the first round the applicant had approached this Tribunal against the order of transfer issued by Respondent No.2 transferring him to Puri in public interest for a period of two years and in obedience to the said order dated 23.02.2015 the applicant joined in his present place of posting and subsequently made a representation against the order of transfer highlighting certain personal problems. While the matter stood thus, on 20.04.2015 another order was passed by Respondent No.3 by directing the applicant either to vacate the quarter or to pay the higher rent. Being aggrieved by such an order, applicant approached this Tribunal by filing O.A. No.792/2015 and the same was disposed vide order dated 19.11.2015 (Annexure-A/5) by directing the Respondents to consider the representations so preferred by the applicant and dispose of the same with a reasoned and speaking order. In the meantime, another order was issued to the applicant on 09.02.2016 to take his family with him and to vacate the quarters in question which was allotted to him at Bhubaneswar, followed by a further order issued by Respondent No.2 on 25.02.2016. While the matter stood thus, the C&AG India, New Delhi issued certain clarification directing the local authorities to allow persons to retain quarters at

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Bhubaneswar on their transfer within the state of Odisha as communicated vide Memo dated 13.07.2016. After coming to know about such a circular, the applicant submitted another representation dated 28.07.16 before the Respondents-Authorities to regularize the retention of quarters on his transfer to Puri. Thereafter, the applicant filed another O.A. bearing No.540/16 but before the matter was taken up, certain developments took place and that is how on the prayer made by the applicant the O.A. was allowed to be withdrawn to file better application. Having got such a liberty, applicant has filed the instant O.A. with the following prayer:-

- “ (i) To admit this OA and to quash the office communication dated 09.02.2016 (Annex-A/6) and dated 25.02.2016 (Annex-A/7) holding that the same is de-hores the rules and issued in contravention of C&AG of India letter dated 13.07.2016.
- (ii) To direct the Respondent No. 2 & 3 to permit the applicant to retain the quarter is under his occupation;
- (iii) To direct the Respondents to regularize the retention of quarter at Bhubaneswar with the normal rent w.e.f. 23.02.2015.
- (iv) To direct the Respondents to extend the consequential relief and benefits to the applicant;
- (v) And/or pass any other order/orders as deemed fit and proper.”

4. At the outset Mr. Ojha drew my attention to the order of transfer issued to the applicant under Annexure-A/1 in which it has been categorically stated that the applicant has been transferred to ES-II Puri in public interest for a period of two year from the date of his joining. By drawing my attention to the Circular /General Rules regarding retention of quarters which has been annexed at Annexure-A/2, Mr. Ojha pin pointed his submissions to the provisions enumerated in Clause-P which read as under:-

“Transfer means a transfer from the station where the residential accommodation is situated to any other place or from

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an eligible office to an ineligible office in that station where the allottee is residing and includes a transfer to a service under a State Government or Union Territory Administration and also deputation to a post in an ineligible office or organization but shall not include the transfer in public interest to a place/office where the allottee is not permitted or advised by the government to take his family with him.”

5. Mr. Ojha also brought to my notice the order passed by this Tribunal in O.A. No.792/15 vis-à-vis the order or rejection passed by the authorities dated 09.02.2016 and dated 25.02.2016 and submitted that these two orders cannot be termed as reasoned and speaking orders because, none of the points raised by the applicant in his representation has been considered as directed by this Tribunal vide order dated 19.11.2015 in O.A. No.792/15 and therefore, this should be termed as a cryptic one and hence, the same should be quashed. At the last step of argument Mr. Ojha brought to my notice the Annexure-A/8 dated 13.07.2016 in which under Paragraph 2(ii) it has been categorically stated that “Retention of Officials posted at branch offices with main office at Bhubaneswar (within the State ) at the normal rate of license fee” and submitted that ventilating all these points again the applicant made an exhaustive representation dated 28.07.16 (Annexure-A/9) to the Respondent No.3 and till date no response has been received from the said Respondent No.3.

6. On the other hand Mr. Patra submitted that this O.A. should be dismissed because the applicant has suppressed certain facts from this Tribunal. To substantiate his submission, Mr. Patra submitted that though by virtue of an interim order, Respondents were directed to allow the applicant to continue to occupy the staff quarters at Bhubaneswar, but the applicant has not mentioned the same in the instant O.A. Therefore, the

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applicant has not approached this Tribunal with clean hands. Further, Mr. Patra brought to my notice an order which has been passed on 20.04.2015 and a copy of the same that has been marked to the applicant and submitted that the applicant has deliberately not annexed this document to the instant O. A.

7. After hearing the arguments of both the sides in extenso I find that the order passed by the Departmental Respondents under Annexure-A/6 & A/7 dated 09.02.2016 and 25.02.2016 respectively cannot be accepted as well reasoned orders as in my view those have not passed taking into account the points raised by the applicant in his representation as directed by this Tribunal vide order dated 19.11.2015 passed in OA No.792/15. Therefore, these orders are nothing but cryptic. I also find that the circular issued by the Departmental Respondents under Annexure- A/8 addressed to Respondent Nos. 2 & 3 are nothing but a clarification of the earlier rules which has been annexed at Annexure-A/2 regarding transfer as well as retention of staff quarters. However, as the applicant has already made a representation dated 28.07.2016 Annexure-A/9 addressed to the respondent No.3 ventilating his grievance, therefore, without entering into the merit of the case and without keeping the matter pending awaiting a counter, I feel it proper to dispose of this O.A by directing Respondent Nos.2 & 3 to reexamine the issue keeping in mind the orders and Govt. Circulars issued from time to time more particularly under Annexure-A/2 as well as Annexure-A/8 and communicate the result thereof by way of a well-reasoned order within a period of three months from the date of receipt of this order. I made it clear that status quo as on date so far as the retention of

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staff quarters by the applicant shall be maintained for a further period of one month from the date of communication result on the representation and till then no coercive action regarding recovery of damage rent/excess rent more than license fee from the applicant shall be recovered from the salary of the applicant.

8. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.

9. On the prayer made by Mr. S.K. Ojha, Ld. Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos.2,3 & 4 by Speed Post for which Mr. Ojha undertakes to file the postal requisites by 04.11.2016.

  
(A.K. Patnaik)  
Judicial Member