

**Central Administrative Tribunal
Madras Bench**

**MA/310/00616/2019 (in)(&) OA/310/01600/2018, MA/310/00619/2019 (in)(&)
OA/310/01318/2018, MA/310/00617/2019 (in)(&) OA/310/01281/2018,
MA/310/00618/2019 (in)(&) OA/310/01299/2018**

Dated the 11th day of February Two Thousand Twenty

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

1. A.ArulKumar .. Applicant in OA 1600/18/Respondent in MA 616/19
2. B.Varatharajan ..Applicant in OA 1318/18/Respondent in MA 619/19
3. A.Balaji ..Applicant in OA 1281/18/Respondent in MA 617/19
4. A.Senthil Kumar ..Applicant in OA 1299/18/Respondent in MA 618/19

By Advocate **M/s.R.Malaichamy, M/s.R.Chakkravarthy**

Vs.

OA 1600/2018

1. The Union of India, rep. by
The Chief Engineer,
SZ-1 (Southern Zone-1),
Central Public Works Department, (CPWD),
Rajaji Bhawan, Besant Nagar,
Chennai 600 090.
2. The Executive Engineer(E),
O/o the Chennai Central Electrical Division-II,
Central Public Works Department,
Shastri Bhavan, Chennai 600 006.
3. The Estate Office cum Executive Engineer,
CCD-V, CPWD, Ground Floor,
“D” Wing, Rajaji Bhawan,
Besant Nagar, Chennai 600 090.
4. The Regional Executive Director,

Airport Authority of India,
Southern Region,
Operational Offices Complex,
Chennai 600 027.

.. Respondents/Applicants

By Advocate **Mr.SU.Srinivasan(R1-3), Mr.M.T.Arunan(R4)**

OA 1318/2018

1. Union of India rep. by the
Chief Engineer,
SZ-1 (Southern Zone-1),
Central Public Works Department, (CPWD),
Rajaji Bhawan, Besant Nagar,
Chennai 600 090.
2. The Executive Engineer,
CCD V, CPWD,
Rajaji Bhawan,
Besant Nagar,
Chennai 600 090.
3. The Executive Engineer(E),
CCED II, Central PWD,
Nungambakkam,
Chennai 600 006.
4. The Regional Executive Director,
Airport Authority of India,
Southern Region,
Operational Offices Complex,
Chennai 600 027. ..Respondents/Applicants

By Advocate **Mr.SU.Srinivasan(R1-3), Mr.M.T.Arunan(R4)**

OA 1281/2018

1. Union of India, rep. by the
The Chief Engineer,
SZ-1 (Southern Zone-1),
Central Public Works Department, (CPWD),
Rajaji Bhawan, Besant Nagar,
Chennai 600 090.
2. The Executive Engineer,
CCD V, CPWD,
Rajaji Bhawan,
Besant Nagar,
Chennai 600 090.

3. The Estate Office cum Executive Engineer,
CCD-V, CPWD, Ground Floor,
“D” Wing, Rajaji Bhawan,
Besant Nagar, Chennai 600 090.
4. The Regional Executive Director,
Airport Authority of India,
Southern Region,
Operational Offices Complex,
Chennai 600 027. ..Respondents/Applicants

By Advocate **Mr.SU.Srinivasan(R1-3), Mr.M.T.Arunan(R4)**

OA 1299/2018

1. Union of India, rep. by the
The Chief Engineer,
SZ-1 (Southern Zone-1),
Central Public Works Department, (CPWD),
Rajaji Bhawan, Besant Nagar,
Chennai 600 090.
2. The Executive Engineer,
CCD V, CPWD,
Rajaji Bhawan,
Besant Nagar,
Chennai 600 090.
3. The Estate Office cum Executive Engineer,
CCD-V, CPWD, Ground Floor,
“D” Wing, Rajaji Bhawan,
Besant Nagar, Chennai 600 090.
4. The Regional Executive Director,
Airport Authority of India,
Southern Region,
Operational Offices Complex,
Chennai 600 027. ..Respondents/Applicants

By Advocate **Mr.SU.Srinivasan(R1-3), Mr.M.T.Arunan(R4)**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OAs are filed seeking the following relief(s):-

OA 1600/2018:

“1. To call for records relating to the order No.1(8)/CCEDII/2018/917, dated 15.9.2018 passed by the 2nd respondent and set aside the same; and

2. To award costs, and pass such further and other orders as may be deemed and proper and thus render justice.”

OA 1318/2018:

“1. To call for the records of the 3rd respondent pertaining to his order which is made in No.1(8)CCED II/2018/914 dated 15.9.2018 and set aside the same; and

2. To pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

OA 1281/2018:

“1. To call for the records of the 3rd respondent pertaining to his order which is made in No.1(6)CCD/2018/1513 dated 15.9.18 and set aside the same; and

2. To pass further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

OA 1299/2018:

“1. To call for the records of the 3rd respondent pertaining to his order which is made in No.1(6)CCD V/2018/1510 dated 15.9.2018 and set aside the same; and

2. To pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

2. As the issue involved in all these applications is identical and the relief sought for also is similar, these applications have been heard together and are being disposed off by this common order.
3. The case in brief is that the applicants in these cases are occupying CPWD Quarters at Palavanthangal Sub-way Service Road, Meenambakkam from various dates stated in the OAs.
4. According to them, the Quarters they are occupying was allotted to them by the respondents 1 to 3 and they are residing there with their families. Children are studying in Nearby schools. These Quarters are situated in the land of Airport Authority of India (AAI) (R4). The CPWD had taken the land from Airport Authority for Staff Quarters about 28 years back on condition of payment of Licence Fee. Respondents 1 to 3 are recovering the House Rent Allowance (HRA) and Licence Fee from the applicants regularly. According to the applicant, CPWD was not paying the agreed amounts to R4 and R4 had demanded to hand over of the land in return on 11.6.18. Instead of paying the agreed amount to R4, R1 to 3 initiated steps to evict the applicants stating that they are unauthorised occupants. R1 to 3 issued Notice on 10.7.18 to vacate the Quarters on or before 17.7.18.
5. Applicants gave representation to the R2 stating the above facts. It was not properly considered and R3 had cancelled the allotment of Quarters on 15.9.18.
6. Eventhough applicants requested for allotment of another Quarters, but the offer given by the respondents were not suitable to reside. The applicants are willing to handover the premises by April/May 2019.

7. So, they pray for quashing the cancellation of allotment dt. 15.9.18. They also sought an interim order of stay of operation of the cancellation order.

8. After hearing the applicant, an interim order of 'status quo' was granted against cancellation.

9. R1 to 3 and R4 appeared and filed a reply stating that the OA itself is not maintainable. According to them, prior to 1986, it was CPWD which was entrusted with construction and maintenance of Civil Aerodromes. The Director General of Aerodromes has permitted to give Licence for 1.65 acres of land for construction of Quarters with condition of licence for a period of 5 years. According to them, after the period was over, R4 demanded back property on 19.5.89. R4 had addressed R1 to 3 many times seeking return of property. After formation of AAI, they started their own engineering Wing. On 18.8.17 the Special Director General of AAI again wrote letter demanding property for expansion purposes. Accordingly, CPWD initiated steps and issued notice to all allottees to vacate within 30 days of notice. Applicants alone did not vacate the premises even after 6 months and hence allotment of Quarters was cancelled on 15.9.18. It is false to say that the CPWD had not paid the Licence Fee to R4.

10. When the matter came up for hearing, the counsel appearing for the respondents raised a question of maintainability of the OAs itself. He has invited our attention to the decision of the Karnataka High Court in *Union of India v. Smt.D.N.Sarojadevi [W.P.Nos.37536 to 37541/2013 (S-CAT) dt. 20.2.14* and would content that the applicants are unauthorised occupants of public premises after

cancellation of allotment and hence no case can be filed under Section 19 of the AT Act, 1985. The dispute is not with the employer and hence these OAs are liable to be dismissed. The Hon'ble High Court in para 2 of the above said decision had held as follows after considering what all service matters can be brought before the Administrative Tribunal:-

“12. The jurisdiction, power and authority of the Central Administrative Tribunal are specified under sub-section (1) of Section 14 of the Act. The Tribunal under this provision is invested with the jurisdiction and power to decide all disputes and complaints relating to persons appointed to public services and posts under the Union Government and other authorities enumerated in this provision except those who are expressly excluded by Section 2 of the Act. Section 19 provides for making an application by a person aggrieved by the order pertaining to any matter within the jurisdiction of a Tribunal for redressal of his grievances. In this context, the expression 'service matters' contained in Sec.3(q) assumes importance, which is defined as under:

“(q) “service matters” in relation to person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any Corporation or society owned or controlled by the Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever.”

13. A perusal of this provision makes it clear that what is defined in Section 3(q) is 'service matter' in relation to a person. It provides that all matters relating to conditions of service come within this definition. In other words, to qualify as a 'service matter', it has to be a condition of service or must have proximate nexus to a condition of service. Secondly, the nexus to the conditions of service must be in

respect of the five categories of matters specified in the clauses. After specifying four specific conditions of service in clause (I) to (iv), the residuary clause speaks of 'any other matter whatsoever'. Though the language employed is wide, it is not possible to infer that the Parliament intended to bring in every matter without any qualification. The said expression is qualified and takes its colour from the expression 'all matters relating to the conditions of service' employed in the first part of the definition clause. As this general clause occurs after enumeration of different specific conditions of service, the principle of ejusdem generis is attracted. 'Ejusdem generis' is a rule of legal construction that general words of following enumeration of particulars are to have their generality limited by reference to the preceding particular enumeration and to be construed as including only all other articles of the like nature and quality. Having regard to the setting and context, the expression 'any other matter whatsoever' means 'condition of service in respect of any other matter whatsoever'."

11. From the above discussion, it can be seen that the dispute in the present OA also relate to allotment of quarters and does not come under the purview of AT Act. In this case also allotment of Quarters to the applicants were cancelled after giving sufficient opportunity to vacate. The dispute relating to eviction of the Quarters will not come under "service matter" under the Act.

12. Hence, we are of the view that there is no merit in the contention raised in these OA. The OAs are not maintainable as such and they are hereby dismissed. The MAs are allowed. The interim order to maintain status quo order in favour of the applicants will stand vacated forthwith. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

11.02.2020

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