

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 043/00004/2020

Date of Order: This, the 03rd day of January 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Shri Lekh Bahadur Thapa
 Son of Late Hukum Bahadur Thapa
 MES: A/4351869, B/Smith (MCM)
 O/o GE Shillong, Shillong Division
 Shillong – 793002.

...Applicant

By Advocates: Sri M. Chanda & Sri K. Abhinaba

-VERSUS-

1. Union of India
 Through the Secretary
 Ministry of Defence, Govt. of India
 South Block, New Delhi – 110001.
2. HQ Commander Works Engineer
 Spread Eagle Falls
 Shillong – 793011.
3. The G.E. (MES)
 Shillong Division
 Shillong – 793002.
4. GE Umroi
 Military Station, Umroi
 Shillong – 793103.

... Respondents

O R D E R (ORAL)

MANJULA DAS, MEMBER (J)

On being mentioned by Sri M. Chanda, learned counsel for the applicant, this matter is being taken up today as unlisted.



2. In the instant case, the prayer of the applicant is for transfer and posting at Umroi Military Station under the administrative control of CWE Shillong on extreme compassionate ground in the light of pending representations dated 06.11.2019 and 10.12.2019 with immediate effect without any further delay and till such time, quarter allotted to him at Umroi shall not be disturbed/vacated.

3. The main grievance of the applicant is that his parents are aged about 80 years and 78 years respectively and residing with the applicant in the quarter at Umroi which was allotted to him on 26.04.1990 being No. 178/7 (type-I). Both of applicant's parents are suffering due to old age chronic disease and undergoing medical treatment and they are almost bedridden. None is there to look after them. The applicant is also for long years in the out of the station of

Umroi. As such, he made several representations before the authority for posting him at Umroi from Shillong. The quarter No. 178/7 (type-I) was allotted to the applicant and as per provisions of Appendix-9II(A) of the Swamy's Fundamental Rules, for retention of General Pool Accommodation by Civilian Central Govt. Employees, some incentive are given by which the applicant is entitled to get retain the quarter.



4. Accordingly, occupation of the said quarter is going on. However, suddenly, a notice dated 29.11.2019 was issued by Major, GE, Umroi intimating the applicant to vacate the said quarter. The applicant has since made a representation dated 10.12.2019 before the respondent No. 3 with a request to allow him to retain in the said quarter No. 178/7 (type-I) for a further period of four months so as to enable him to shift in a private house to arrange for his old aged parents after the winter season i.e. upto April 2020.

5. From the record, it is seen that the applicant also made a representation before the respondent No. 2 on 06.11.2019 for transfer and posting him in the office of the GE Umroi so as to enable him to look after his aged

parents. More so, the applicant has been completed for more than 37 years of service and now he is at the verge of retirement. However, the respondent authority is not responding his prayer vide two representations, as mentioned above, till now.



6. We have noted that earlier, the respondent authority had allotted the quarter No. 178/7 (type-I) to the applicant at Umroi as per law under admissible which is continued. Now the department has tried to vacate the said quarter by evicting old parents of the applicant. It is further noted that the applicant has not yet applied for quarter. Now he wants to come in the station wherein his parents are leaving so as to enable him to look after them. The representations made in 2019 have also not yet responded to.

7. It is noted that, on earlier occasion, when the department tried to vacate the quarter allotted to the applicant vide order dated 17.02.2014, he approached before this Tribunal by filing O.A. No. 040/00090/2014 and this Tribunal vide order dated 06.03.2014 disposed of the said O.A. directing the respondent authorities not to vacate applicant from the quarter in view of the

transfer from Umroi to Shillong. Against the order of this Tribunal dated 06.03.2014, the respondents have approached before the Hon'ble High Court of Meghalaya vide WP(C) No. 27/2015 where the Hon'ble High Court by an order dated 07.04.2015 did not interfere and disposed of by observing as hereunder:-



"In the above factual backdrop, this writ petition is disposed with the direction that the respondent may not be vacated from the said quarter at the last place of posting i.e. Umroi Military Station till new quarter at Shillong is allotted to the respondent. The impugned order dated 06.03.2014 passed in Original Application No. 040-000090 of 2014 is modified to the extent indicated above."

8. For coming to a logical conclusion, the points to be noted that the applicant has not yet occupied any Govt. quarter at Shillong or any other place else than Umroi and as per the provisions of law more particularly in view of the orders of this Tribunal as well as Hon'ble High Court of Meghalaya, as discussed herein above, the respondent authorities ought not to have issued an order to vacate the quarter from Umroi station where undisputed facts remain that the applicant has not applied any quarter at Shillong.

9. Presently we are of the view that the matter be remanded back to the respondent authority for disposal

of the representations dated 06.11.2019 and 10.12.2019 made by the applicant considering for posting him at Umroi either in the post of Blacksmith or in any other equivalent post, within a period of four months' from the date of receipt of a copy of this order. Ordered accordingly.



11. It is made clear that the decision of the respondent authorities shall be reasoned and speaking and be communicated to the applicant forthwith.

With the above observations and directions, O.A. stands disposed of accordingly at the admission stage.

12. Till such time, quarter No. 178/7 (type-I) allotted to the applicant, shall not be disturbed.

13. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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