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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

1. OA No. 696/2004
2. OA No. 697/2004
3. OA No. 698/2004 ✓

New Delhi this the 17th day of May, 2004.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

OA No. 696/2004

J.S. Rathore,
S/o late Salegram Rathore,
R/o A.T. III/7, Plot No. 9,
Pocket No. 6,
Naseerpur (Pappankala),
New Delhi (Storekeeper Grade-I)

-Applicant

(By Advocate Shri Sumit Kumar) vs. Ms. P.K. Singh)

-Versus-

National Council of Educational
Research and Training (NCERT),
through the Director,
Sri Aurobindo Marg,
New Delhi-110 016.

-Respondent

(By Advocate Sh. R.K. Singh, with proxy for Ms. Deepa Rai,
Counsel)

OA No. 697/2004

Ram Lal Lingowall,
S/o late P.S. Lingowall,
R/o C.T. III/41, Plot No. 9,
Pocket No. 6,
Naseerpur (Pappankala),
New Delhi.

-Applicant

(By Advocate Shri Sumit Kumar)

-Versus-

National Council of Educational
Research and Training (NCERT),
through the Director,
Sri Aurobindo Marg,
New Delhi-110 016.

-Respondent

(By Advocate Sh. R.K. Singh, with proxy for Ms. Deepa Rai,
Counsel)

OA No. 698/2004

T.D. Bisht,
S/o late H.D. Bisht,
R/o C.T. III/44, Plot No. 9,
Pocket No. 6,
Naseerpur (Pappankala),
New Delhi, Sr. Accountant, NCERT

-Applicant

(By Advocate Shri Sumit Kumar)

-Versus-



National Council of Educational
Research and Training (NCERT),
through the Director,
Sri Aurobindo Marg,
New Delhi-110 016.

--Respondent

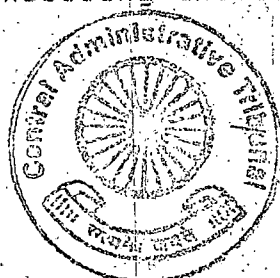
(By Advocate Sh. R.K. Singh With Proxy for Ms. Deepa Rai,
Counsel)

O R D E R (ORAL)

As the issue raised in these OAs is founded on identical facts and question of law, OAs are disposed of by this common order.

2. In OA-696/2004 applicant has assailed respondents order dated 12.3.2004, cancelling the offer for change of quarter with a further stipulation to be placed in the change list at an appropriate place according to the date of entitled pay scale. Applicant in view of circular dated 11.5.2001 of the respondents relaxing the existing eligibility range for allotment of Type-III quarters from the pay scale of Rs.5500/- and above to Rs.5,000/- was allotted quarter No.A.T. III/17, Plot No.9, Pocket No.6, Naseerpur (Pappankala) applicant has applied for change in 2001 and was included at serial No.33 of the change list for Type III quarters issued vide notification dated 19.12.2001 of the persons above him have been allowed change of accommodation. Applicant was offered changed allotment on 11.11.2003 and in pursuance thereof he got the electricity and telephone connections disconnected as per the requirements in the earlier accommodation.

3. The impugned order has been passed by the respondents cancelling the offer, giving rise to the present OA.



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4. In OA-697/2004 applicant impugns cancellation of offer for change of accommodation by an order passed by the respondents on 10.3.2004. Applicant on relaxation was allotted quarter No.T.III/41, Plot No.9, Pocket No.6, Naseerpur (Pappankala), New Delhi and in pursuance thereof circular dated 19.12.2001 pertaining to the changed list his name figured at serial No.34 on 11.11.2003 offer of change of accommodation was made, which was accepted with disconnection of electricity and telephone at the earlier accommodation. Impugned order cancels the offer for change, giving rise to the present OA.

5. In OA-698/2004 applicant impugns respondents order dated 12.3.2004, cancelling the offer for change. Applicant was allotted on relaxation of pay scale quarter No.C.T.III/44, Plot No.9, Pocket No.6, Naseerpur (Pappankala), New Delhi. His name figured at serial No.36 of the changed list and was offered change on 13.11.2003. He got telephone and electricity connections disconnected and shifted his children to KVS, NIE, Campus. Impugned order cancels the accommodation.

6. Learned counsel for applicants Sh. Sumit Kumar impugns the orders on the ground that before cancelling the accommodation no reasonable opportunity to show cause has been afforded.

7. It is further submitted that after the change applicants are to be treated at par with other aspirants for change and cannot be discriminated.



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8. By referring to the Hand Book on General Pool residential accommodation it is stated that for a change waiting list criteria is for first come first serve basis and length of service or pay drawn is of no consequence.

9. Learned counsel further states that criteria whereby relaxation for allotment of quarter at Pappankala would be considered for apply for change of quarter only from the date of attaining eligibility is prospective and cannot be applied retrospectively. Even if a police decision in absence of such communication to the criteria already adopted while extending the offer for change.

10. Learned counsel states that there is no senior in so far as applicants are concerned in the change list and the respondents are estopped from clubbing the claim of the persons who are in the seniority list of initial waiting. Their cases are to be treated in different manner.

11. On the other hand, respondents counsel vehemently opposed the contentions. According to him, as the seniority for waiting list has been incorrectly prepared without eligibility of applicants regarding pay scale as per rules for change the government servant has to apply on maturity on turn of initial waiting list. Accordingly, the offer which was inadvertently issued de hors the rules has been rectified which does require any show cause notice.

12. Learned counsel states that there may be other seniors to applicants in the matter of pay scale in initial waiting list for whom the change is to be acceded to



in preference to the claim of applicants and whenever their turn on attainment of maturity which has been acquired only in 2003 the cases would be considered.

13. In so far as electricity and telephone connections are concerned, it is stated that applicants may apply for reconnection.

14. Lastly, it is stated that applicants cannot be treated at par for the purposes of eligibility on attainment of maturity on turn as by way of relaxation they have been accorded allotment.

15. I have carefully considered the rival contentions of the parties and perused the material on record. It is settled position of law that an administrative decision which has been taken by the respondents vide their notification dated 24.3.2004 where those who have been granted relaxation in pay scale their cases would be considered for change of quarters only from the date of attaining eligibility cannot be applied retrospectively. There is no indication as to retrospective application of the aforesaid letter. However, I find that applicants have been treated for allotment on out of turn basis in relaxation of eligibility criteria. Accordingly, the list prepared for waiting cannot be clubbed together with the initial waiting list. The cases of applicants would have to be considered from the point of view of their seniority on first come first served basis as per the allotment instructions.



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16. In this view of the matter I have no hesitation to observe that if no senior to applicants exists for waiting without considering the initial waiting list their offer for change shall be given effect to. Till then the interim orders are made absolute. This shall be done within a period of one month from the date of receipt of a copy of this order.

17. OAs stand disposed of in the above terms. No costs.

18. Let a copy of this order be placed in the case file of each case.

San.

(Shanker Raju)
Member (J)



REGISTERED TRUE COPY

Dated

प्रधान न्यायाधीश (सदस्य-1)

Deputy Chairman (J-1)

उप-प्रधान न्यायाधीश

Central Administrative Tribunal

प्रधान न्यायाधीश, नई दिल्ली

Principal Bench, New Delhi