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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration (QA) no 812 of 1987

Munshi Mullick and others applicants.

Versus

General Manager, Ordnance Factory and others Respondents.

Hon'ble S. Zaheer Hasan, V.C (J)
Hon'ble D.S. Misra, Member (A)

(By Hon'ble D.S. Misra)

This is an application under Section 19 of the Administrative tribunals Act XIII of 1985 against the allotment of government accommodation to non-entitled officers by the General Manager (respondent no 2).

2. The applicants' case is that they are working in the Ordnance Factory Raipur Dehradun, where there are some residential quarters for the employees of the factory; that the Ministry of Works & Housing, Government of India have prescribed norms regarding various percentage to be considered for residential accommodation and allotment of residential quarters; that the quarters available for the employees of the factory are Type I, II, III, IV and V and there are few quarters of Type III and IV which are lying vacant and are available for allotment; that the applicants have put long tenure of service and are seniors in the matter of allotment of quarters by virtue of their date of eligibility being much earlier than respondent no. 3 (Sri Govind Mohan) Assistant Works Manager, who has been

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allotted quarter of Type IV depriving so many other persons who were in the que for a long time; that the applicants have come to know that respondent no.1 is bent upon allotting quarters to the Assistant Works Managers, who are much junior to the applicants and this amounts to denial of justice and violation of the rules of allotment of residential government accommodation; that the applicants' representation made in August, 1987 has been turned down and respondent no.1 continues to allot the residential accommodation to non-entitled and junior officers ignoring the rights of their seniors in the matter of allotment of Type III and IV quarters. The applicants have prayed (i) for issue of an order or direction to respondent no.1 not to make allotment of quarters of Type III and IV to the Assistant Works Managers, who are junior to the applicants and (ii) to direct respondent no.1 to allot quarters of Type III and IV to the applicants who are senior to Assistant Works Managers.

3. In the reply filed on behalf of the respondents, it is stated that out of 9 applicants, five are already in occupation of government accommodation and therefore, no cause of action has arisen for them to move this tribunal and others who have come on transfer from other factories shall get the quarters when new quarters which are expected to be completed in phases are completed; that the guidelines for allotment of quarters in the Ordnance Factory were issued vide D.G.O.F. letter dated 29-9/4.10.1979 which were amended vide letters dated 8/12-4-82 and 26/28-6-82; that terms and conditions of employees working under the respondents nos.1 and 2 do not guarantee provisions of government accommodation to all employees; that there is no ~~typewriter~~ Type IV quarters vacant at present and as and when any type IV quarter falls vacant, the same ~~is being~~ ^{will be} allotted

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as per allotment rules; that the contention of the applicants in para 6(8) of the application regarding seniority in the matter of allotment of quarters being much earlier than Sri Govind Mohan (respondent no.3) is not disputed but a Type IV quarter was allotted to Sri Govind Mohan as he was required to perform services/duties at odd hours and as such he is required to stay within the factory estate so that he can be called on duty at any time; that the allotment of a quarter to respondent no.3 is covered vide Ministry of Defence Letter dated 13.12.73, received vide D.G.O.F. letter dated 18.2.1974 (copy annexures SCA-1 and SCA-2 respectively); that the factory management is following the quarter allotment rules and the applicants have no cause of action to approach this tribunal, and the applicants are not entitled to any relief.

4. In the rejoinder affidavit filed on behalf of the applicants, it is stated that Govind Mohan (respondent no.3) was not entitled to Type IV quarter, because he was enjoying the pay of Rs.700/- per month when a Type IV quarter was allotted to him; that the accommodation allotted to applicants nos. 1 to 5 was of Type II only and the accommodation is inferior to Type IV quarters to which they are entitled; that the Assistant Works Managers, who have been allotted Type IV quarters, are being paid below Rs.1000/- per month in the old scale of pay, whereas the applicants are in the pay range of Rs.1000-1499; that after the filing of the present application in this tribunal, the respondents have allotted Type IV quarters to Assistant Works Managers who are receiving less than Rs.1000/- pay in the old scale of pay; that the Ordnance Factory Board have issued an allotment rule dated 3.1.1987 (copy R.A.2) which clarifies the position.

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5.A misc. application was filed on behalf of the applicants in which it is alleged that subsequent to the filing of the above mentioned application in this tribunal, the respondents have illegally allotted Type IV quarters to six other persons mentioned in Annexure-A to the misc. application, and the said allotment of Type IV quarter to these persons is illegal.

6.A supplementary affidavit was filed on behalf of the respondents in which the pay range for the purpose of allotment of government quarter in the factory is stated, and the respondents have filed copy of a circular letter dated 22nd September, 1979 in support of this contention (copy S.A.1); that the basic pay which is relevant for the purposes of allotment of residential quarter is the basic pay of pre-revised scales and not the present scale of pay (copy annexure S.A.2); that Sri G.N.Sharma, Asstt. Works Manager (Electrical II) was required to stay in the premises of factory for essential responsibilities which were given to him for factory maintenance.

7. We have heard the arguments of the learned counsel for the parties and have carefully perused the documents on record. Learned counsel for the applicants contended that the instruction contained in Circular no.102 (Factory Order Part I) dated 30.3.1983 (copy annexure 1 to the application) is applicable for allotment of government accommodation and that the instructions contained in the circular letters filed by the respondents being of an earlier date are superseded or modified as the case may be. It is further contended that the allotments made by respondent no.1 are in complete violation of the instructions contained

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in the circular no.102 mentioned above. The first contention of the learned counsel for the respondents is that the government accommodation belonging to Type III and Type IV categories can be and should be allotted to persons drawing salary in the scale of Rs.500-999 and Rs.1000-1499, respectively and that the applicants who are not drawing pay in the above mentioned scales of pay (old scale) are not entitled to be allotted respective categories of quarters. He has also contended that according to para 2(4) of the Circular dated 22.9.1979(S.A.I), the Delhi Allotment Rules are not applicable for allotment of quarters in Ordnance Factory. Regarding allotment of Type IV quarter to respondent no.3 and Sri G.N.Sharma, it has been contended on behalf of the respondents that these officers have been deputed to perform duty which makes it essential for their presence in the factory premises all the times. The duties to these officers are mentioned in the order dated 20th April, 1987(annexure C.A.2A). They have also relied upon the minutes of the meetings held in the room of Secretary (D.P) on 27.11.1973 regarding the formation of allotment board for quarters(C.A.II). Para 2 of this minutes states that after some discussion, Secretary (D.P) directed as below: "A category of common essential services is viz. fire fighting, security, teaching, medical and maintenance staff should be formed. This category should be given priority in the allotment of quarters." The respondents' contention is that respondent no.3 and Sri G.N.Sharma have been allotted type IV quarters in the factory premises, out of turn because of the essential nature of duties assigned to them and in accordance with the directions contained in the minutes of the meetings, mentioned above. The contention of the applicants is that

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these instructions being of the year 1973 stands superseded by the instructions contained in the Circular no.102 dated 30.3.1983. We have considered the applicability of the various circulars filed by the parties and we are of the opinion that the instructions contained in the Ordnance Factory Dehradun, Circular Order no.102 dated 30.3.1983(annexure 1 to the claim petition)being the latest order on the subject is applicable for allotment of government accommodation to its employees. This circular reproduces OFB letters dated 22.9.1979, 12.4.1982 and 26.6.82 on the subject of allotment of residential accommodation. Circular dated 22.9.1979 prescribes the admissible pay range for various type of quarters and also prescribes the date of eligibility for allotment of these quarters as under.

"2(i):the date of eligibility will be the date from which the individual continues to draw minimum of the pay range mentioned against each type of quarters as per para 1 above."

2(ii) the pay range is the basic pay and does not include any allowances."

The OFB letter dated 12.4.1982 deals with the procedure for determining seniority for allotment of quarters where more than one person carries the date of eligibility as 1.1.1973. Similarly the OFB letter dated 26.6.82 also deals with the above mentioned subject. We are not concerned with this matter in the present case.

8. We have considered the allotment made by the respondents in favour of respondent no.3 and Sri G.N.Sharma on the ground that they are required to stay within the factory premises for maintenance of essential services. Although we are not convinced about the legality of the decision taken in the meeting under the chairmanship of secretary D.P. on

27.11.1973 regarding seniority being given in the allotment of quarters to persons connected with maintenance of essential services, like fire fighting, security, teaching, medical and maintenance staff, but we do not wish to interfere in the internal administration of the factory and would not declare this provision illegal or violative of the instruction contained in the circular dated 22.9.1979, referred to above. However, even the above mentioned decision does not empower the General Manager Ordnance Factory to overlook the seniority of the applicants in the matter of allotment of quarters. In our opinion, it is not necessary for the respondent no.3 to allot government accommodation to an employee who is not eligible for allotment of higher type of quarter merely on the ground of the persons having been assigned duties of an essential nature and such persons should have been allotted accommodation according to their entitlement, or if no such accommodation is available, a lower type quarter if a quarter of his entitlement is not vacant. The respondents have given no justification for allotment of type IV accommodation to six more persons mentioned in the rejoinder affidavit filed by the applicants as R.A.1. They have also not denied the allegations of the applicants that these persons were also junior to the applicants so far as their eligibility and seniority for allotment of type IV quarters is concerned. In the absence of such denial, we are of the opinion that these allotments are violative of the instructions for allotment of accommodation contained in the OFB letter dated 22.9.79.

For the reasons mentioned above, we direct the respondents to determine the eligibility and inter-se seniority of the employees for allotment of government accommodation

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and to make allotment of quarters in accordance with rules for allotment of residential accommodation prescribed by the Government of India as amended from time to time and to desist from making allotments in violation of these rules in future. The application is ~~allowed~~ ^{decided accordingly}. Parties shall bear their own costs.

A.M. 29.2.88

[Signature]
Vice Chairman(J)

JS 29 2.1988