

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 170/2004

Thursday, this the 4th day of August, 2005.

CORAM:

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

Abraham Mathew,
MES No.369080,
Fitter General Mechanic(FGM),
O/o Assistant Garrison Engineer,
Electrical & Mechanical (Air Force),
Akkulam, Thuruvickal.P.O.
Pulayanarkottah,
Trivandrum.

Applicant

By Advocate Mrs N Sobha

vs

1. Union of India represented by
its Secretary,
Ministry of Defence,
New Delhi.
2. The Commander Works Engineer,
(Air Force),
Thirumala Post,
Trivandrum.
3. The Garrison Engineer(Air Force),
Akkulam, Thiruvikal.P.O.,
Pulayanarkottah,
Trivandrum -31.
4. The Assistant Garrison Engineer,
Electrical & Mechanical(Air Force),
Akkulam, Thuruvickal.P.O.,
Pulayanarkottah,
Trivandrum-31.

Respondents

By Advocate Mr TPM Ibrahimkhan, SCGSC

The application having been heard on 4.8.2005, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

M.A.No.503/2005:

The applicant in the O.A. is an industrial staff in the capacity of Fitter General Mechanic in the office of the 4th respondent, was posted at Trivandrum in 1997 and was allotted Quarter No.68/2/Type-III, Pulayanarkottah, Trivandrum. Due to certain family problems with his neighbour the colony life was disturbed and the authorities issued eviction notice to them. The applicant challenged the eviction notice at A-1. By interim order dated 9.3.2004, this Tribunal stayed further action pursuant to A-1 and A-2 by a week in the first instance and then until further orders on 23.3.2004. The main contention of the applicant was that he was having 2 daughters studying at Trivandrum and if he is evicted from the quarters, it will affect their studies. In the meantime, during the pendency of the O.A., the applicant was transferred from Trivandrum to Alwaye in January, 2005. He made a representation dated 10.1.2005 R-3(a) requesting that he may be permitted to retain the accommodation till the academic session is over. Considering the request of the applicant, the 3rd respondent issued orders dated 12.1.2005 permitting the applicant to retain the accommodation upto the academic year 2004-05 and the quarter should be vacated within 7 days on the date of completion of the current academic year.

2. Respondents have filed a reply statement stating that the applicant and his neighbour V.J.Pillai are responsible for creating the unpleasant atmosphere in the colony and hence to maintain peace and dignity of the colony, eviction notices were issued after discussing the matter with the Welfare Committee. There is no record of having the applicant undergoing any medical treatment and his request for retention of quarters in view of the studies of his children has also been considered favourably. Respondents

have also stated in the additional reply statement that an enquiry was ordered into the complaints and separate action was taken against the party concerned. Respondents have filed this M.A. for vacating the interim orders given by this Tribunal stating that his occupation after the academic year is over is unauthorised and the department is not in a position to allot the quarters to other eligible persons.

3. I heard the counsel on both sides. Learned counsel for the applicant submitted that the request of the applicant to continue in the quarters may be allowed since his 2 children are still studying. It was submitted by the respondents that the applicant has been transferred to Alwaye and he has joined there. It is open to him to apply for the quarters in the new place of posting and to arrange for his children's education and he has no right to continue in the quarters after his transfer. His request have been accommodated to the extent possible and the interim orders are standing in the way of respondents for considering other eligible persons.

4. The applicant came before this Tribunal in another context when the transfer orders had not issued against the back ground of some disturbances in the colony and an interim order of stay was granted. Now that the respondents have transferred out both individuals involved in the dispute and action has been taken against them separately, the issue is limited as to the right of the applicant to continue in the present quarters despite his transfer to another station. Once he has been transferred, there is no legal right for him to continue to occupy the quarters unless permitted as a special case on medical grounds or education of the children for a prescribed period provided under the rules. In the case of the applicant that has also been considered and he was allowed to continue till the end of the academic year in order to avoid any hardship to his children's education. Beyond this period the applicant has no right to continue and he has to vacate the quarters.

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Therefore I am of the considered view that the M.A. has to be allowed and the interim order vacated. It is ordered accordingly.

Original Application:

In view of the order in M.A.503/2005, the O.A. is dismissed. No costs.

Dated, the 4th August, 2005.

Sathi Nair
SATHI NAIR
VICE CHAIRMAN

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