

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**



O.A.NOs. 369/07, 378/07, 387/07, 388/07, 392/07 & 393/07

Thursday, this, the 19th day of June, 2008.

CORAM :

HON'BLE Dr.K.B.S RAJAN, JUDICIAL MEMBER

1. O.A.369/07 :

C.G.Mohammed Rafecque
Upper Division Clerk
District Employment Exchange
Kavaratti, Lakshadweep

: Applicant

(By Advocate Mr.N.Nagaresli)

v.

1. Local Accommodation Board
represented by its Member Secretary
Kavaratti, Lakshadweep
2. Central Accommodation Board
represented by its Chairman
Kavaratti, Lakshadweep
3. Union Territory of Lakshadweep
represented by its Administrator
Kavaratti, Lakshadweep
4. P.Mohammed Koya
Upper Division Clerk
Electrical Sub Division
Kavaratti, U.T of Lakshadweep
Permanent address : Pallath House
Kalpeni Island, U.T of Lakshadweep
5. P.P.Mohammed Koya
Lower Division Clerk
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Residing at : Quarter No.EQ-1.
Near Electrical Divisional Office
Kavaratti, U.T of Lakshadweep

6. A.I.Mohammed Kasim
 Statistical Assistant
 Electrical Divisional Office
 Kavaratti, U.T of Lakshadweep
 Permanent address : Allyathamnada, Iyashapura,
 Androth Island, U.T of Lakshadweep : Respondents
- (By Advocate Mr.S.Radhakrishnan (R1-3)
 Advocate Mr.TCG Swamy (R 4 to 6)

2. OA 378/07 :

- P.Abdul Jabbar
 Statistical Assistant
 Integrated Child Development of Services
 Department Social Justice, Empowerment & Culture
 Union Territory of Lakshadweep
 Kavaratti, Lakshadweep : Applicant
- (By Advocate Mr.N.Nagaresli)

v.

1. Local Accommodation Board
 represented by its Member Secretary
 Kavaratti, Lakshadweep
2. Central Accommodation Board
 represented by its Chairman
 Kavaratti, Lakshadweep
3. Union Territory of Lakshadweep
 represented by its Administrator
 Kavaratti, Lakshadweep
4. P.Mohammed Koya
 Upper Division Clerk
 Electrical Sub Division
 Kavaratti, U.T of Lakshadweep
 Permanent address : Pallath House
 Kalpeni Island, U.T of Lakshadweep

5. P.P.Mohammed Koya
Lower Division Clerk
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Residing at : Quarter No.EQ-1,
Near Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
6. A.I.Mohammed Kasim
Statistical Assistant
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Permanent address : Allyathamada, Iyashapura,
Androth Island, U.T of Lakshadweep : Respondents

(By Advocate Mr.S.Radhakrishnan (R1-3)
Advocate Mr.TCG Swamy (R 4 to 6)

3. O.A.387/07 :

P.I.Mohammed Koya
Watchman/Peon
Secretariat, Kavaratti
Lakshadweep : Applicant

(By Advocate Mr.N.Nagaresh)

v.

1. Local Accommodation Board
represented by its Member Secretary
Kavaratti, Lakshadweep
2. Central Accommodation Board
represented by its Chairman
Kavaratti, Lakshadweep
3. Union Territory of Lakshadweep
represented by its Administrator
Kavaratti, Lakshadweep
4. P.Mohammed Koya
Upper Division Clerk
Electrical Sub Division
Kavaratti, U.T of Lakshadweep
Permanent address : Pallath House
Kalpeni Island, U.T of Lakshadweep

5. P.P.Mohammed Koya
Lower Division Clerk
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Residing at : Quarter No.EQ-I,
Near Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
6. A.I.Mohammed Kasim
Statistical Assistant
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Permanent address : Allyathamada, Iyashapura,
Androth Island, U.T of Lakshadweep : Respondents

(By Advocate Mr.S.Radhakrishnan (R1-3)
Advocate Mr.TCG Swamy (R 4 to 6)

4. O.A.388/07 :

V.B.Abdul Rahiman
Stenographer
Secretariat, Kavaratti
Lakshadweep : Applicant

(By Advocate Mr.N.Nagaresh)

v.

1. Local Accommodation Board
represented by its Member Secretary
Kavaratti, Lakshadweep
2. Central Accommodation Board
represented by its Chairman
Kavaratti, Lakshadweep
3. Union Territory of Lakshadweep
represented by its Administrator
Kavaratti, Lakshadweep
4. P.Mohammed Koya
Upper Division Clerk
Electrical Sub Division
Kavaratti, U.T of Lakshadweep
Permanent address : Pallath House
Kalpeni Island, U.T of Lakshadweep

5. P.P.Mohammed Koya
Lower Division Clerk
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Residing at : Quarter No.EQ-I,
Near Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
6. A.I.Mohammed Kasim
Statistical Assistant
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Permanent address : Allyathammada, Iyashapura,
Androth Island, U.T of Lakshadweep : Respondents

(By Advocate Mr.S.Radhakrishnan (R1-3)
Advocate Mr.TCG Swamy (R 4 to 6)

5. O.A 392/07 :

P.P.Kunhiseethi
Upper Division Clerk
Directorate of Panchayats
Kavaratti, Lakshadweep : Applicant

(By Advocate Mr.N.Nagaresh)

v.

1. Local Accommodation Board
represented by its Member Secretary
Kavaratti, Lakshadweep
2. Central Accommodation Board
represented by its Chairman
Kavaratti, Lakshadweep
3. Union Territory of Lakshadweep
represented by its Administrator
Kavaratti, Lakshadweep
4. P.Mohammed Koya
Upper Division Clerk
Electrical Sub Division
Kavaratti, U.T of Lakshadweep
Permanent address : Pallath House
Kalpeni Island, U.T of Lakshadweep

5. P.P.Mohammed Koya
Lower Division Clerk
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Residing at : Quarter No.EQ-I,
Near Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
6. A.I.Mohammed Kasim
Statistical Assistant
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Permanent address : Allyathanmada, Iyashapura,
Androth Island, U.T of Lakshadweep : Respondents

(By Advocate Mr.S.Radhakrishnan (R1-3)
Advocate Mr.TCG Swamy (R 4 to 6)

6. O.A.393/07 :

P.C.Pookunhi
Health Inspector
Village Dweep Panchayat
Kavaratti, Lakshadweep : Applicant

(By Advocate Mr.N.Nagaresh)

v.

1. Local Accommodation Board
represented by its Member Secretary
Kavaratti, Lakshadweep
2. Central Accommodation Board
represented by its Chairman
Kavaratti, Lakshadweep
3. Union Territory of Lakshadweep
represented by its Administrator
Kavaratti, Lakshadweep
4. P.Mohammed Koya
Upper Division Clerk
Electrical Sub Division
Kavaratti, U.T of Lakshadweep
Permanent address : Pallath House
Kalpeni Island, U.T of Lakshadweep

5. P.P.Mohammed Koya
Lower Division Clerk
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Residing at : Quarter No.EQ-I,
Near Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
 6. A.I.Mohammed Kasim
Statistical Assistant
Electrical Divisional Office
Kavaratti, U.T of Lakshadweep
Permanent address : Allyathanmada, Iyashapura,
Androth Island, U.T of Lakshadweep : Respondents
- (By Advocate Mr.S.Radhakrishnan (R1-3)
Advocate Mr.TCG Swamy (R 4 to 6))

ORDER
HON'BLE Dr.K.B.S RAJAN, JUDICIAL MEMBER

The above O.As have common point of law and hence these are decided by a common judgment. Of course, these O.As have been argued by the counsel separately.

2. Some basic facts of these cases are as under:-

(a) OA No. 392/07:

- (i) The applicant joined the 3rd respondent's organization on 15-12-1989 and he was posted at Kavaratti on 20-04-2005. According to the applicant under Rule 3 of the Rules for Allotment of Residential Accommodation in Lakshadweep, vide publication No. 2/1/935/90-CAB dated 04-08-1992, when a residential accommodation falls vacant in a particular island, the

allotment of such accommodation should be made with reference to the eligibility of the Government Servants at the moment posted and working in that island. Married Government Servants are given the first priority for allotment and Women Govt. Servants even without family are also given the accommodation, but under a second priority. In 2004 and 2006, a large number of Type II Quarters were allotted to Government Servants overlooking the seniority and eligibility of the applicant. The applicant had preferred a representation in this regard but without considering the same, the respondents have issued an allotment order dated 04-12-2006 vide Annexure A-3, whereby it could be seen that juniors to the applicant have been allotted the accommodation. Yet another allotment letter dated 18.01.2007 vide Annexure A-4 had been issued wherein too juniors to the applicant had been given allotment of accommodation. That is not the end of it. By further allotment orders dated 04-03-2007 and 19-03-2007, vide Annexure A-5 and A-6, certain juniors to the applicant had been given allotment of accommodation. It was later by Annexure A-7 order dated 20.04.2007, the applicant was allotted a Type II accommodation and on the basis of the same, vacating the private accommodation he had, the applicant had taken over the allotted accommodation. Thereafter also, allotment letters were issued to various individuals, which inter alia consist of juniors to the applicant. Annexure A-8 refers. It was thereafter, vide Annexure A-1 order dated 26-05-2007 and Annexure A-2 order dated 30-05-2007, the respondents have cancelled the allotment made to the applicant and asked the applicant to vacate the accommodation allotted to him. Hence this O.A.

challenging the order of cancellation of allotment to the applicants, on various grounds as contained in para 5 of the O.A.

(ii) Respondents have contested the O.A. According to them, the Central Accommodation Board is the superior authority in matters of allotment of accommodation and the Local Accommodation Board has to carry out the same. Rule 2 of Rules for Allotment of Residential Accommodation in Lakshadweep, vide Annexure A-1(b) is relevant. Earlier the applicant was allotted a single accommodation but he had vacated the same on 30-11-2006 stating that it was not comfortable for them. Allotment of accommodation to juniors as per various orders was on account of the fact that certain accommodations near Navy Area in the southern side of the island, which were not accepted by the seniors as in that area the water is totally saline. The Central Allotment Board had advised the Local Allotment Board to review all the cases of allotment of accommodation and strictly go on the basis of seniority and the impugned orders have been passed in pursuance thereof. In the counter, justification in respect of allotment made to certain juniors has also been given. According to the respondents, their action is a sequel to the order of this Tribunal in OA No. 318/2007 also. (Presumably, it was on that ground that other allotment letters had not been cancelled).

(iii) In his rejoinder, the applicant had denied various contentions of the applicant and reiterated his own legal issues. He had contended that the applicant has been discriminated as those who have been given the allotment

through other allotment letters, have not been disturbed.

(b) The facts and contentions in respect of all other connected O.As are identical and the response by the respondents in these cases are also identical. In all these O.As, the impugned orders are the same i.e. Annexure A-1 order dated 26-05-2007 and Annexure A-2 order dated 30-05-2007.

3. Counsel for the applicant had submitted that when juniors to the applicants have not been disturbed in the review, there is no reason to discriminate the applicants in these O.As.

4. Counsel for the respondents submitted that the action taken by the respondents cannot be faulted with as the cancellation of allotment is only in respect of those who are juniors and the grievance of the applicants earlier was that they had been ignored and their juniors had been allotted the accommodation. As such, they cannot have the grievance now, when they have been allotted accommodation when their seniors are still waiting for accommodation.

5. In order to appreciate the facts of the case, certain details have been called for including the total number of accommodation of various types and the seniority list entitled to Type II, III, IV and V and other accommodation. These have been furnished by the respondents.

6. A perusal of the said documents shows that in so far as Type II

accommodation is concerned, there are 204 accommodations while the seniority list consists of 194 names. Thus, 10 quarters seem to be in excess. Thus, all would have been given accommodation, if these are available to that extent. From the seniority list of those who are entitled to Type III Accommodation it is observed that as many as 30 individuals have been allotted type II accommodation. Had these not been allotted to them, perhaps the seniors to the applicants would have got their accommodation and the necessity to ask the applicants to vacate would not have arisen. Though a higher type entitled individual could be given accommodation of a lower type, when there is a waiting list in that particular type, it should be ensured that such allotment of lower type accommodation to the higher type entitled individuals, should be restricted to the minimum so that the lower type entitled individuals are not deprived of their entitled accommodation. This has not been considered by the Central Accommodation Board or Local Accommodation Board. This exercise should therefore, be considered first by the CAB.

7. Respondents should therefore undertake the exercise of verifying as to how many out of the thirty type III entitled individuals who have been given type II accommodation, are senior enough to be allotted type III accommodation and whether these could be offered type III either immediately or as and when type III accommodation becomes vacant and allot them type III accommodation and the resultant vacant type II accommodation should be allotted on the basis of seniority in that type. Till then, status-quo in respect of the applicants' accommodation shall be maintained and they shall not be evicted by the respondents.

8. The OAs are disposed of accordingly. No costs.

(Dated, the 19th June, 2008.)

Dr.K.B.S.RAJAN
JUDICIAL MEMBER

VS