

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Judgment:- (Per Shri P.Srinivasan, Member)

Application No./Stamp No.14 of 1985
(O. Application No.10/85)

Shri P.J.D.Wartika
Asstt.Storekeeper,
Weapon Equipment Depot,
Mankhurd, Bombay-400-088 ... Applicant

V/s

1. Union of India,
Ministry of Defence
New Delhi
2. Flag Officer Commanding in
Chief, Headquarters,
Western Naval Command, Bombay
3. Admiral Superintendent
Naval Dockyard, Lion Gate,
Bombay.
4. Naval Armament Supply Office
N.A.D.Trombay, Bombay-400-088. ... Respondents.

Coram: Vice Chairman B.C.Gadgil
Member P.Srinivasan

1. Shri C.S.Thakore, Advocate for the
Applicant.
2. Shri M.I.Sethna, Advocate for the
Respondents.

In this application we are required to determine the scope and applicability of the orders of the Government of India, on the subject, "Concession of Ad-hoc allotment of General pool accommodation admissible to eligible dependents/relations of Government Employees on their retirement". These orders were conveyed in O.M.No.12035(7) POL.II dated 1.5.1981 issued by the Ministry of Works and Housing, New Delhi, a copy of which appears at Page-19 of the compilation (to be referred to hereinafter as the G.O.M.).

2. The normal Rules of allotment of Government accommodation provide for the maintenance of a waiting list of eligible applicants arranged in serial order according to certain pre-determined general criteria announced before applications are called for. Allotment of quarters falling vacant from time to time is then made to the applicants in the order in which their numbers appear on the waiting list. However, in certain special circumstances, a person is allowed to "jump the queue" and to get allotment even before his turn comes up in the waiting list. The G.O.M. under reference deals with one such circumstance in which, the "concession of ad-hoc allotment" will be available. The applicant claims that he falls within the scope of the G.O.M. and is therefore eligible for concessional ad-hoc allotment while the Respondents resist this claim.

3. Turning to the nature of the concession available under the G.O.M. and the conditions therefor, we quote the relevant passage from the G.O.M. itself, though for convenience, we break it up into its component clauses serially numbered so that ^{later} ~~latest~~ in this order we will be able to examine whether the facts of this case satisfy each one of them:

"When a Government Servant

- 1) Who is an allottee of General Pool Accommodation,
- 2) retires from service,
- 3) his/her Son/Unmarried Daughter, Wife/Husband as the case may be,
- 4) may be allotted accommodation from the General Pool on ad-hoc basis provided that
- 5) the said relation is a Government servant eligible for allotment of accommodation in General Pool and
- 6) had been continuously residing with the Government Servant for at least 3 years immediately preceding the date of his/her retirement."

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Since the G.O.M. is concerned with accommodation controlled by the Ministry of Works and Housing, so far as other pools of Government Accommodation are concerned, it leaves it to the respective Ministries to "consider the matter and take their own decision". We need not refer to the other parts of the G.O.M. because the arguments on both sides were concentrated on the requirements set out above.

4. We may now notice the facts of the application before us, in the background of the conditions laid down in the G.O.M. The applicant is a Civilian Employee of the Indian Navy at Bombay. He was appointed as Assistant Store-Keeper in the Weapons Equipment Depot, Mankhurd on 5.10.1981 in a casual vacancy and was regularised in that post from 5.6.1983. The applicant's father was also a civilian employee of the Navy till he "retired" - there was some argument about the use of this expression which will be dealt with later in this order- as Senior Chargeman in the Naval Armaments Depot, Karanja. In 1951, the father was allotted Quarter No. T-20/1 at Trombay which falls under the category of emergency accommodation for civilian employees under the Western Naval Command. The applicant was living with his father in the same quarter from his childhood though he drew House Rent Allowance till 30.6.1985. The father was due to retire from service on 31.5.1985, but sometime before that, certain proceedings were initiated against him as a result of which he was compulsorily retired with effect from the same date on which he was to superannuate, i.e. from 31.5.1985. The Western Naval Command, however, allowed him to retain the quarter for two months after 31.5.1985 i.e. , upto 31.7.1985. Failing to obtain further extension, the applicant's father filed Writ Petition No.1474 of 1985 in the Bombay High Court. We do not have before us a copy of the petition but we were told by the parties that his prayer was that he be allowed to retain the quarter

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for some more time or in the alternative that the quarter ~~should~~ be allotted to his son, the applicant here. It was, however, explained to the Court on behalf of the Naval authorities that being emergency accommodation subject to special rules of allotment, the allotment of the quarter could not be transferred to the applicant. The High Court thereupon obtained an undertaking from the applicant's father that he would hand over peaceful possession of the quarter on or before 30.11.1985 (Page-13 of the compilation) and dismissed the petition with a direction to the Naval authorities to let him continue in occupation of the quarter till 30.11.1985. The applicant's father duly vacated the quarter on 30.11.1985.

5. A copy of the rules for allotment of emergency accommodation to civilians in the Western Naval Command appears as an annexure to the reply filed on behalf of the Respondents at page 51 of the compilation. A total of 321 quarters in different locations have been identified as emergency accommodation. They are said to be barrack-type buildings which are not in the nature of permanent accommodation. Allotment of quarters in these buildings are made purely on 1) administrative grounds, 2) Medical grounds and 3) seniority on emergency roster, in that order of priority. Allottees are required to furnish an undertaking at the time of allotment that they would hand over possession when called upon to do so by the Western Naval Command. The undertaking also requires the allottee to apply for civilian accommodation controlled by the Estate Manager, Bombay and to furnish his number on the waiting list there. The allottee acknowledges that the accommodation is temporary and that he has to vacate it without claiming any lien on alternative accommodation, whenever it was required to be demolished. The entire undertaking emphasises the purely temporary nature of the allotment even though in practice, as in the instant case, a person might be able to stay on for long periods.

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6. To clear the ground, we may first dispose of some objections put forward on behalf of the respondents. Shri Sethna urged that the matter had already been decided against the applicant in the Writ Petition No.1474 of 1985 by the Bombay High Court and had therefore become res judicata. We do not agree. The applicant was not a party in that litigation. Moreover, as reported to us by Counsel, the Court had merely agreed that the applicant's father could not be allowed to stay indefinitely in emergency accommodation, nor could it be automatically allotted to the applicant as it was subject to special rules. The applicant's claim for some other accommodation under the G.O.M., by virtue of being the son of a retiring officer stands unaffected by that litigation. It was also said on behalf of the Respondent that the applicant's father had not "retired" as required in the G.O.M but had been compulsorily retired. We do not see much in this distinction. In both cases the government servant "retires" from service whether it be by superannuation or by an order of compulsory retirement. Both the modes of demitting office use the word "retire". Thus the requirement in clause(2) of the G.O.M. in para 3 above is fulfilled. The applicant being the son and a regular civilian employee of the Navy eligible for General Pool accommodation at the time of his father's retirement, clauses 3) and 5) of the G.O.M. as analysed by us in para 3 are also satisfied.

7. There was also a controversy as to whether clause 6) of the G.O.M. as analysed by us was fulfilled, i.e. whether it could be said that the applicant had continuously resided with his father for 3 years immediately preceding the latter's retirement. As mentioned in para 4 above, the applicant was drawing House Rent Allowance till 30.6.1983. Shri Sethana on behalf of the Respondents urged that this was irregular and that the applicant should not therefore be given the benefit of the G.O.M. It was not, however, the Respondent's case that the applicant had not, in fact, resided with his father for three years before the latter's retirement. We do not, in the circumstances, agree that the mere drawal of House Rent Allowance disentitles the applicant to the benefit of the G.O.M. If such drawal was against

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the rules, the Respondent may be able to take such action as may be necessary, but that does not affect the course of this litigation. We therefore hold that clause 6) of para 3 above is also satisfied.

7 8. We are now left to examine only whether clause 1) of the G.O.M. as analysed by us, viz. that the retiring government servant should be an allottee of General Pool accommodation, is satisfied in this case. On behalf of the applicant, it was urged that even though the quarter in question is described as emergency accommodation it was really in the General Pool. All civilian employees of the Navy were eligible for allotment if they fell in the priority categories mentioned in the relevant rules. Emergency allotment was not restricted to employees of any department or Section. The applicant's father was working in the Naval Armaments Depot at Karanja while the quarter he was occupying was in Trombay in the vicinity of the Naval Ammunitions Depot at Trombay. If the allotment of the Trombay quarters had been restricted to the employees of the Naval Ammunitions Depot and only then, according to Shri Thakore, could it be said that they were not in the General Pool.

9. We are not impressed with the arguments of the applicant's Counsel. The G.O.M. clearly stated that with regard to pools of government accommodation other than those controlled by the Ministry of Works and Housing, the respective Ministries would "consider the matter and take their own decision." It was for the Naval authorities therefore to decide as to what accommodation under their control should be regarded as General Pool accommodation for applying the G.O.M. It was stated before us that accommodation controlled by the Dockyard is only treated as General Pool accommodation for this purpose. In any case, emergency accommodation with its strictly restricted rules of allotment and temporary tenure which can be terminated at short notice cannot be equated with the General Pool accommodation of the Works and Housing Ministry. A vague statement was made on behalf of the applicant that there had been some cases in the past of close relations of allottees of emergency accommodation being given adhoc allotment on the retirement of the allottees. In the absence of full facts of such cases we cannot draw any inference from vague assertions of this sort. Therefore the requirement of clause 1) of the

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G.O.M. as analysed by us is not satisfied in this case. A person seeking a concession has to show that he fulfils every requirement of the relevant rules conferring the concession. The applicant has failed to do so.

10. In the result, the application therefore fails. Parties to bear their own costs.

B.C. Gadgil
21.4.1986
(B.C. Gadgil)
Vice-Chairman

P. Srinivasan
21.4.1986
(P. Srinivasan)
Member.

Applicant
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