

(22)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCHOT ROAD, BOMBAY-1

M V S Murty
448 R&E E. (Engrs) Colony
Dighi
Pune 411015

..Applicant

V/s.

1. Scientific Adviser to Raksha Mantri
and Director General
Research & Development Organisation
South Block
DHQ, P.O., New Delhi 110011

2. Director of works
Directorate of Works
Defence Res.&Dev.Organisation
B-Wing, Sena Bhawan,
DHQ P.O.
New Delhi 110011

3. Director
R&D Engrs. Dighi, Pune-15

4. Shri Y P Pathak
Scientist 'E'
R&D E.(Engrs.) Dighi
Pune 15

5. Shri S. Seshadri
Scientist 'E'
R&D E.(Engrs.)
Dighi, Pune-15

.. Respondents

CORAM: Hon. Shri P S Chaudhuri, Member (A)

APPEARANCE

Applicant in
person

Shri A I Bhatkar
(instructing MR. M I Sethan)
Advocate
for the respondents

JUDGMENT:
(PER: P.S. Chaudhuri, Member (A))

DAED: 13-9-1991

This application under section 19 of the
Administrative Tribunals Act, 1985 (For short, The
Act) was filed on 30.6.1988. In it the applicant
who is working as Scientist 'D' in the Establishment
of the 3rd Respondent is seeking an enforcement of
his rights in the matter of allotment of quarters

belonging to the residential accommodation in R&D (Common Pool).

2. In exercise of the powers conferred by Section 5(6) of the said Act, the Chairman of the Central Administrative Tribunal has by order dated 21.3.1988 authorised all the Members of the Central Administrative Tribunal to function as a Bench consisting of a Single Member and to exercise the jurisdiction, powers and authority of the Tribunal in respect of such cases or class of cases as are specified in the said order. Cases relating to allotment of and eviction from Government accommodation have been so specified in the said order. In view of the prayer to which I have referred this is clearly one such case. Further, both the applicant and Mr. A I Bhatkar, learned counsel who alone appeared for the respondents and submitted that he is instructing Mr. M I Sethan, submitted that there was no complex issues involved. Besides, after being specifically asked about it, neither of them suggested that the matter should go to a Bench of two Members. In view of this position, I have proceeded to hear and decide this case.

3. The applicant joined DRDO organisation as Junior Scientific Officer at Hyderabad in November 1971. On selection by UPSC he was posted to his present organisation in July 1974 as Senior Scientific Officer Gr.II/Scientist Gr.B. In September 1981, again after selection by UPSC, he was posted as Scientist C at Manali. In January 1984 he was posted to his present establishment in the same capacity. On 1-7-1986 he was promoted to his present post.

4. In 1974 he was entitled to a Type-IV quarter for which he applied some time in or about 1975. He was not allotted this accommodation and so lived in private accommodation at Pune from 1974. In or about 1977 the rules changed and he was no longer entitled for Type-IV accommodation but was instead, entitled to only Type-III accommodation. He applied

for such a quarter in October 1979 and was allotted such a quarter, in which he has lived eversince.

He continued in retention of this quarter even during the three year period he was posted at Manali because during that period he was ^{so} entitled in terms of being modified field service concessions.

5. The entitlement of the applicant to quarters changed to Type IV since 1.7.1981 based on his promotion to the post of Scientist-'C' on a basic pay of Rs. 1100 in the then scale of Rs.1100-1600. This entitlement improved to type V with effect from 1-7-1986 consequent on his promotion as Scientist-D on a basic pay of Rs.1500 in the scale of Rs.1500-2000. With the introduction of the revised scales, his pay has been fixed at a basic pay of Rs. 3700 in the scale Rs.3700-5000 with effect from 1-7-1986.

6. The applicant did not apply for any change of quarter while he was away at Manali but did so on his ^{return} about March 1984. Thereafter, he applied for Type-V accommodation, to which he had become entitled consequent on his pay going above Rs.3600, in about November 1986. Type-V accommodation was not allotted to him and so he made an application to this effect on 12.11.1987. The applicant discussed the matter with his superiors when, according to him,

he was informed that the entitlement of quarters to service officers serving in the respondent's organisation was different qua civilian officers in that organisation. He was not satisfied with this explanation and pursued the matter by a representation dated 24.3.1988 to the first respondent. But this was rejected by letter dated 2.5.1988. He submitted a further representation to the first respondent on 24.5.1988, but did not receive a reply. Being aggrieved, he filed this application.

7. The respondents have opposed the application by filing their written statement. As mentioned earlier, I have heard the applicant in person and learned counsel for the respondents.

8. The applicant's grievance pertains to the allotment of type-V quarters for Civilian employees and the equivalent quarter for Service employees. Prior to the filing of this application in June 1988 the R&D (Common Pool) Residential Accommodation of such quarters consisted of one quarter for the Director, 22 quarters for Service employees and 2 for Civilian employees. In June 1988, 6 more type V quarters became ready and for occupation and were allotted.

9. The applicant was aggrieved at this allotment because, according to him, two of the quarters had been allotted in violation of the rules governing such allotment. These rules are entitled "Allotment Rules for R&D (Common Pool) Residential Accommodation, 1973" which have been sanctioned by the President. The applicant contends that there has been a violation

of the rules when making the June 1986 allotment order. Two employees owning houses had been allotted Type-V accommodation in exchange of the accommodation already occupied by them. He contends that there has thus been a violation of Rule 14(4) which says that employees owning houses and occupying Government accommodation shall not be entitled to change of residence. This is refuted by the respondents 1 to 3. Respondents no. 1 to 3 contend that one of these employees, Y P Pathak, Respondent No.4, does own a house but that house ~~has~~ less accommodation than his entitlement and so does not come within the purview of this rule in terms of a corrigendum dated 23.2.1977. As far as ~~the~~ other employee, S.Seshadri, Respondent No.5, is concerned, respondents 1 to 3 contend that the accommodation in question is not owned by him but is owned by his mother. In view of this statement, I am not going into the ownership of this accommodation; that is something for respondents 1 to 3 to concern themselves with and take such action as is warranted. Respondents 1 to 3 also contend that, apart from this, Rule 14(4) cannot be read in isolation - it has to be read with the rest of the rule. A plain reading of the rules makes it clear that the bar ^{is} in respect of employees who own such accommodation as would disqualify them under Rule 14(4) and the change asked for is to another residence of the same type or a residence of the type to which he is entitled which ever is lower. In this case respondents no. 4 and 5 have asked for a change to the type of accommodation to which they are entitled which is higher than the type of accommodation in their possession. It is the contention of the Respondents 1 to 3

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that, so, the bar contained in Rule 14(4) will not hit respondents 4 and 5. Against this background, I must reject the applicant's submission.

10. The applicants next submission relates to allotment of quarters to unentitled service employees. No such employee has been impleaded and so they would not be covered by this litigation. However, we may see the position as it is at present. I was informed that there are 23 quarters in all for service employees ^{of the rank of Major and above} of which one is occupied by the Director of the respondent organisation and 12 by entitled service officers. In addition one is occupied by an entitled DRDO civilian scientist. There is no dispute about these 14 quarters. That leaves 9 of which six are occupied by service tenure officers. The applicant contended that by circular dated 31.1.1990 tenure officers were no longer entitled to accommodation from the R&D (Common Pool) Residential Accommodation. Service officers posted on tenure basis to DRDO would now be provided with a regular defence pool accommodation/ hired accommodation in their turn with other service officers posted in the station. They would thus no longer be entitled to the R&D (Common Pool) Residential Accommodation. This will certainly apply in respect of service officers posted on tenure basis to the respondents organisation in future. It cannot apply to those who have already got the accommodation. All the six tenure officers were posted before 31.1.1990 - in fact they were posted between 23.4.1988 and 10.8.1989. Further, none of these officers has been impleaded. Against this

background, whilst the submission of the applicant is certainly valid for the future it does not apply to the allotment to the ^{present} ~~allotment~~ covering ^{these} six quarters.

11. This leaves us with three quarters. Of ~~these~~, one has since been transferred from the R&D (Common Pool) Residential Accommodation to the Estate Management Unit (R&D) by the first respondent. I cannot find fault with this transfer. Coming to the second quarter, it has been earmarked as accommodation for the Security Officer, The rules of 1973 do provide for a earmarking of a residence for a specific appointment held by an employee who is not entitled to rent-free residence. In view of this position this earmarking cannot be faulted.

12. This brings us to the 23rd quarter which has been allotted to the Chief Administrative Officer. Mr. Bhatkar sought to contend that he was borne on a separate list distinct from the list for other civilian employees who were scientists. I am not impressed with this argument as there is no such provision in the rules to make a distinction between one civilian employee and another civilian employee. In any case it was not the respondents' case that the said quarter had been earmarked for the said post. I have no doubt in my mind that the respondents should not have allotted this quarter to its present ^{incumbent} ~~senior and eligible~~ overlooking the claims of other/civilian employees at that time. But that ^{incumbent} is also not before me and so I leave this by saying that this allotment is not in conformity with the rules.

13. This brings me to the final issue viz., the situation under which civilian employees are eligible for consideration for allotment of the accommodation built for service employees. The respondents sought to suggest that this accommodation should always be kept aside for service employees. I am unable to ~~accede~~^{to} this submission of the respondents as the rules make it quite clear that there is only a common pool. The applicant himself readily conceded that if an eligible service employee was available without accommodation when any accommodation falls vacant, the service employee should get the accommodation in preference to civilian employee, who might be waiting for the accommodation even from an earlier date. However, if the accommodation for service employees fell vacant and there was no eligible service employee waiting for the accommodation, the accommodation must necessarily be given to the senior most eligible civilian employee in the waiting list. I see considerable merit in this submission of the applicant.

14. In this view of the matter, I am of the opinion that the application deserves to succeed partly.

15. The application is accordingly disposed of with the direction that when respondents no. 1 to 3 consider waiting lists relating to allotment of residential accommodation from R&D (Common Pool) Residential Accommodation every month and find that the accommodation for service employees which is available for allotment is more than the number of service employees eligible

for allotment and waiting for such accommodation, respondents no. 1 to 3 shall consider the cases of civilian employees in the waiting list for the allotment of such accommodation. In the circumstances of the case there will be no order as to costs.

P.S. Chaudhuri

(P.S. Chaudhuri)
Member (A)

13-9-1991