

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Transferred Application No.131/86.

Suryakant Sahebrao Salvi,
C/o B.M. Jagtap, 409/7,
Rasta Peth,
Pune - 411 011.

... Applicant
(Original Petitioner)

V/s.

1. Union of India
through
the Secretary,
Ministry of Works and Housing,
New Delhi.
2. The Controller of Defence Accounts,
Southern Command, A-N Section,
Pune - 411 001.
3. The Controller of General Defence,
Accounts,
R.K. Puram(West Block 5),
New Delhi - 110 022.
4. The Chairman,
Pune Housing and Area Development,
Pune. ... Respondents.

Coram:Hon'ble Vice-Chairman B.C.Gadgil,
Hon'ble Member(A)J.G. Rajadhyaksha

Appearances:

1. Applicant in person.
2. None appears for the Respondents.

ORAL JUDGMENT :

(Per B.C. Gadgil, Vice-Chairman) Dated: 24-2-1987.

This matter was originally Writ Petition No.4315/84 on the file of the High Court at Bombay and it has been transferred to this Tribunal for decision.

2. The dispute is as to whether the applicant is entitled to House Building Advance. The applicant is a permanent employee working in the Office of the Controller of Defence Accounts. He has put in 17 years of service. The Government have a scheme under which

the employees are entitled to a refundable House Building Advance. The scheme envisages also purchase of flats by the employees with the help of such advance. There are a number of conditions that are to be observed by the applicant for such advance. One of the conditions is that the applicant has to produce the draft sale deed of the house or the flat.

3. As far as the present application is concerned, it is clear that ^{the} ~~applicant~~ has purchased a flat from the Pune Housing and Area Development Authority. The cost was initially Rs.33,000/-. The applicant has paid an initial amount of Rs.10,000/-. The building (in which the flat is located) was constructed on Government land which was granted by the Collector in favour of the said PHADA, for the specific purpose of constructing flats for the lower and middle income group persons. The scheme of the PHAD Authority is that after the flats are allotted to the various allottees they should form a Co-operative Housing Society and thereafter the conveyance is effected in favour of the said society. The allottees have in this case formed a Co-operative Housing Society viz. Prayatna Co-operative Housing Society. However, conveyance has not yet been executed by the PHAD Authority. The applicant was thus unable to produce the draft of sale deed to be executed in his favour. It is on account of this inability that the applicant's claim has been rejected and therefore he has filed the present application.

4. The respondents opposed the application mainly on the ground that one of the conditions for the grant of House Building Advance is the production

of such a draft sale deed and that in the absence of such production the applicant would not be entitled to get an advance.

5. The contention of the applicant is that insistence on the production of the draft sale deed is erroneous as in the peculiar circumstances mentioned above, there would not be any sale deed in favour of the applicant. According to him the conveyance would be in favour of the society. His grievance was that while in the case of Bombay Housing and Area Development Authority, the condition of production of sale deed has been relaxed by the Government of India and some other employees of the Defence department have been granted such House Building Advance even in Pune without insisting upon the production of the draft *his application for Advance was rejected for want of Sale deed* sale deed, To verify this position we passed an order on 31-12-86 directing the respondents to clarify the position as to whether such advances have been granted without asking for a draft sale deed. The respondents have produced a letter dated 30th January 1987 addressed by the Chief Administrative Officer, Defence Research and Development Organisation and Armament Research and Development Establishment (which is a part of the Defence Department) to the Assistant Controller of Defence Accounts, Pune. That letter states that the House Building Advance has been granted to two employees viz. S/Shri G.Ramesh and V.U. Sahare without insisting on the draft sale deed as they have purchased the flats from the PHAD Authority which is a semi-Government Organisation. The letter further states that with respect to these two employees a sale deed has to be executed with the Society and not with the allottee

individually and the House Building Advance was granted on the basis of certificate issued by the PHADA about the allotment of the flats to these employees. The letter also adds that the advance was sanctioned after waiving the condition for the production of the said draft sale deed, and on those two employees furnishing two sureties each.

6. It is thus clear that the condition about the production of draft sale deed is liable to be waived. Of course all this will depend upon the particular facts of the case. Such condition was waived in favour of Ramesh and Sahare as they have purchased the flats from PHAD Authority and later on a society was formed of those flat owners. The applicant's contention is that his case is also practically similar to that of Ramesh and Sahare and that it would be in the fitness of things if the condition is ordered to be waived for sanctioning the House Building Advance. This is more so when the said advance is refundable and the applicant has to hypothecate the flat to the President of India; and the Society and the PHAD Authority have no objection to such hypothecation. It appears that the production of two sureties (instead of one surety as per the rules) was insisted in the cases of Ramesh and Sahare and the same could be insisted upon in the case of the applicant.

7. There is not much dispute that the price of the flat which was originally to be Rs.33,000/- is increased to Rs.41,900/- and consequently the applicant would be entitled to an House Building

Advance of Rs.41,900/-. The application thus partly succeeds. The respondents are directed to grant House Building Advance of Rs.41,900/- in accordance with the existing rules in this behalf and if he agrees to observe all the conditions that are required to be observed under the rules. However it is not necessary for the applicant to observe the condition about the production of draft sale deed if applicant furnishes two sureties in place of one.

8. The advance should be sanctioned within a period of 2 months from today. Parties to bear their own costs of the application

B.C. Gadgil

(B.C. GADGIL)
VICE-CHAIRMAN

(J.G. Rajadhyaksha)
(J.G. RAJADHYAKSHA)
MEMBER(A)

Received a copy
of judgement - by
me.

Salvi
C.S.S. Salvi

Dt 27.2.87