

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PREScot ROAD, MUMBAI-1

ORIGINAL APPLICATION NO. 608/96

DATED: FRIDAY THIS 26th DAY OF JULY, 1996

Coram: Hon. Shri B.S. Hegde, Member (J)
R.K. Pathania ..Applicant

(By Advocate Mr. Ramesh
Ramamurthy)

V/s.

Union of India through
Secretary, Min. of Finance
Dept. of Revenue, North Block
New Delhi & 3 ors.

(By Advocate Mr. V.S. Masurkar,
Govt. Standing Counsel) ..Respondents

Mr. N. Shanmugavelu

(By Advocate Mr. P.A. Prabhakaran) .. Intervenor

ORDER

Heard Mr. Ramesh Ramamurthy, counsel for the applicant, Mr. V S Masurkar, Counsel for Respondents Nos. 1 to 4 and Mr. P A Prabhakaran, for the intervenor.

2. The applicant has filed M.P.No.526/96 in O.A. No. 608/96. In the M.P. he has prayed that pending hearing and final disposal of the O.A. the Tribunal may be pleased to direct the Respondents to allot one of the vacant Type VI quarters to the applicant without any further delay.

3. Another M.P. No. 527/96 has been filed by one N. Shanmugavelu seeking permission to implead himself as one of the party respondents in the O.A. He states that by virtue of the order passed by the Tribunal on 11.7.96 directing the Respondents not to allot any Type VI quarters to any officer of the department who is junior to the applicant and fall vacant with effect from 1.7.1996. According to the intervenor, Mr.N Shanmuga-

velu, as per the waiting list published by the Respondents dated 1-7-1996 the applicant in O.A. stands at Sl.No.1 and the present Intervenor's name is at Sl.No.2 and by virtue of the interim order the Respondents state that he would not be allotted any accommodation unless the interim order passed by the Tribunal is vacated.

4. There is considerable force in the arguments advance by the Ld. Counsel Mr. Prabhakaran for the Intervenor. When we passed the order dated 11.7.96 the Respondents had not filed any reply. The Tribunal vide its order dated 1-7-96 directed the Respondents not to recover any damage rent from the applicant till further orders. The Ld. Counsel for the applicant had put forth an argument that the applicant's name is on top of the seniority list for allotment of Type VI quarters and unless the applicant is allotted Type VI quarter no other person/should be allotted Type VI quarters till the Respondents file their reply. Accordingly, the respondents were directed to file reply before 12.08.96. It is also stated in the order dated 11.7.96 that the Ld. Counsel for the Respondent No.3 Mr. V.S. Masurkar urged that he would produce the waiting list on the very same day, but he could not do so. The counsel for the Respondent had stated that unless the applicant makes the payment of penal rent, he shall not be allotted the quarter. This is not borne on record and in my view such a statement is not warranted specially in the absence of their reply.

Abh

5. Respondents have filed their reply on 18-7-96 contending that the cause of action is with regard to damage rent which is independent, likewise the cause of action with regard to the allotment of quarters is as per rules. Since both are distinct and independent in terms of Rule 10 of C.A.T. Procedure Rules the application is not maintainable. The applicant was allowed to retain the quarter up to 6.1.96 only, whereas he has vacated the quarter on 17.5.96 thereby he is liable to pay damage rent for the unauthorised occupation of the quarter. It is also stated in the reply, that the applicant has been posted back to Mumbai on 27.5.96 and he has been wait listed at Sl.No.1 in Type VI in the waiting list. As per working procedure the applicant will be allotted a Type VI accommodation only on clearance of outstanding Government dues. The contention of the Respondents is that the payment of damage rent and allotment of quarter is are two distinct and separate issues and cannot be claimed by filing a single OA. This contention of the Respondents is not acceptable to us. According to us the payment of damage rent and allotment of quarters both have got nexus with each other. Even if it is presumed to be independent cause of action that can be agitated at a later stage, but that by itself does not dis-entitle him to get allotment of quarter which the applicant is otherwise entitled.

for

6. It is true that the order dated 11-7-96 would cause considerable hardship to others who are in the waiting list and who are eligible to be allotted the quarter. It is understood that two Type VI quarters have fallen vacant and on perusal of the waiting list we find that the Applicant's name is at Sl.No.1 and the Intervenor Mr. N. Shanmugavelu is at Sl.No.2 and I am given to understand that the said two Type VI quarters are not yet allotted.

7. I hereby direct the respondents to allot the said quarters according to the Seniority List for Type VI quarters in terms of the allotment rules before 31-07-1996, delinking the payment of damage rent payable by the applicant as the contention of the respondents is negatived by the Tribunal earlier. The allotment of quarter cannot be linked with payment of damage rent. However that aspect will have to be adjudicated after hearing both the parties on merits.

8. O.A. is admitted. I.R. passed on 1.7.96 in terms of para 9(a) to continue till further orders.

9. Respondents are hereby directed to allot the available Type VI quarters to the persons who are listed in the Seniority List before 31-07-96. With this direction M.P. No. 526/96 filed by the applicant and M.P. No. 527/96 filed by the Intervenor are allowed and disposed of accordingly.

10 List the O.A. for hearing on merits on 10 Oct October, 1996.

B.S.Hegde
(B.S.Hegde)
Member (J)

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