

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.390/99 & 947/99

DATE OF DECISION:

The 8th Day of June 2000

Shri C.S. Kheora & Sh. G. PooranchandraApplicant

Shri P.Lobo

Advocate for
Applicants.

Versus

Union of India thru Secretary, Mini. .. Respondents
of Defence

Shri R.R Shetty, for R.K. Shetty,

Advocate for
Respondents

CORAM

Hon'ble Shri B.N.Bahadur, Member (A)

~~Hon'ble Shri S.L. Jain, Member (A)~~

(1) To be referred to the Reporter or not? *No*

(2) Whether it needs to be circulated to other Benches of the Tribunal? *No*

(3) Library. *Yes*

B.N.Bahadur
(B.N.Bahadur)
Member (A) !

*sj**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.390/99
Dated this 8th Day of June 2000.

Coram: Hon'ble Shri B.N. Bahadur, Member (A)

B.N.B.

Shri C.S.Kheora
Supdt. B/R Gde I
GE (NW) Karanja,
CE Navy Mumbai 24,
Assay Bldg. Colaba
Mumbai 400 005. Applicant
R/a: MES Construction
Staff Qtr. No.1 Maude Lane
Colaba, Mumbai 400 005.
(Applicant represented by Shri P.Lobo, Advocate)

vs.

1. Union of India through
Secretary,
Ministry of Defence,
New Delhi-110011.
2. Station Commander
Station Headquarter
Colaba, Mumbai 400 005
3. CE, Navy, 24,
Assay Bldg.
Colaba,
Mumbai 400 005.
4. GE (West)
Colaba,
Mumbai 400 005.
5. AAO BSO (West)
Colaba,
Mumbai 400 005. Respondents
(Respondents represented by Shri R.K.Shetty, Advocate)

Original Application No.947/99
Dated this Day of June, 2000.

Shri G. Pooranchandra
M.T. Driver, Grade I
O/o. The Chief Engineer (Navy)
26, Assaje Bldg. Colaba
Mumbai 400 005.

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B.N.B.

Residing at
 P78/4, MES Qrs, Navy Nagar,
 Colaba, Mumbai 400 005. Applicant
 (Applicant represented by Shri Yelve, Advocate)
 vs.

1. Union of India through
 the Secretary
 Ministry of Defence
 New Delhi-110 011.

2. The Sub-Area Commander
 25, Assay Bldg.
 Colaba, Mumbai 400 005.

3. Station Commander
 Station HQ, 24, Assay Bldg.
 Colaba, Mumbai 5.

4. The garrison Engineer
 West (Army)
 MES, Office
 Navy Nagar,
 Colaba, Mumbai 400 005.

5. The Chief Engineer (Navy)
 26, Assaye Bldg.
 Colaba,
 Mumbai 400 005.

... Respondents

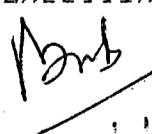
(Respondents 1, 2, 4 & 5 represented by shri R.K.Shetty,
 Advocate) (Respondent No.3 represented by Lt. Col.R.K.Gupta)

O R D E R (ORAL)

[Per B.N.Bahadur, Hon'ble Member (A):

Two OAs have been taken up for disposal together through this common order, viz. O.As. bearing No. 390/99 and 947/99. They have been heard together and taken up for disposal together as the issues involved are the same and the same similar impugned Order/ Orders are being questioned. In fact, Learned Counsels on both sides in the two OAs have pointed this out at the very start and requested that both O.A. should be dealt with together.

2. To cite the facts in the O.A.390/99; the Applicant therein seeks the relief, in substance, that the orders, cancelling the allotment of the Govt. accommodation to applicant



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should be quashed as also orders regarding penal rent. (A.14 and A.16). This was done by the Respondents since the Applicant had been transferred from Garrison Engineer (West) (Army Formation of MES) to CE (Navy) (Naval Formation of MES). The basic point made by the Respondents was that the Acommodation are separate and once the Applicant has been posted in the Naval side, he must vacate his accommodation given from the Army side and seek accommodation from the Naval Pool. The important point that developed into a situation of controversy was that Respondent No.3, who is CE (Navy) has filed an Affidavit in reply, where he had categorically stated that "no separate pool accommodation has been allotted to the persons who are working with Chief Engineer Headquarters (Navy)" hence "the question of withdrawing accommodation from Shri Kheora and allotting him accommodation in a separate Pool does not arise." Further the same Affidavit went on to say that in case a separate Pool of accommodation were to be allotted to Respondents ^{no 3 ab} they ~~would~~ give accommodation to the Applicant. In fact this Affidavit goes on to plead that the present status of accommodation of the Applicant should not be disturbed till separate pool of accommodation is given to Respondent No.3.

3. This matter was heard in some detail some months ago. An interim order has been issued by this Tribunal on 10.9.1999, directing the Respondent No.1 to file an Affidavit (or cause ~~one~~ to be filed) ^{ab} an ~~an~~ Affidavit which would take a unified comprehensive view of the problem. This had become necessary in view of a clear division of opinion as between Respondent No.2 and Respondent No.3, which represented the Army and Navy wings so to speak. Since Respondent No.1 had clear authority over both and was therefore, best competent to resolve the issue, this Interim Order was issued.

4. Eventually, now an Affidavit has been filed dated 5.6.2000. Since the Affidavit does not clearly say that it is filed on behalf of the Respondent No.1 a query was raised in this regard in open court, which has been clarified by Ld. Counsel for the Respondents by showing a letter addressed to Registrar by the Dy. Secretary of Govt. of India dated 2nd June 2000, in which it is stated that Major General A.R. Kumar, who is well conversant with this case, is authorised to appear before the Tribunal on 8.6.2000 along with an Affidavit to be filed on behalf of Union of India viz. Respondent No.1. In this background of this authority, we take the Affidavit filed by Maj Gen. A.R.Kumar VSM Gen. Officer Commanding Maharashtra and Gujarat Area as being filed on behalf of Respondent No.1 i.e. Union of India.

5. With the filing of this Affidavit, the facts can be considered in the narrow campus as emerged on declarations therein by Govt. We do not, therefore, repeat all the other facts of the O.A. In this Affidavit, the Govt has categorically stated, that the Applicant in this O.A. viz. Shri Kheora would be continued in the accommodation of Army Pool that he currently occupies. It is further stated that he has to apply to Western Naval Command for grant of accommodation from Naval Pool "which he is rightly eligible and entitled to". As far as the Applicant is concerned this should set at right his grievance to this extent.

6. I have heard Learned Counsel on both sides not only on the last occasion but also today, in some detail. Learned Counsel for Applicant, Shri Lobo took me over to the document of

the Govt. at page 58 which is Exh.3 and letter addressed by QMG, New Delhi to Southern Command Pune. This letter was referred to with emphasis, and an apprehension expressed by Learned Counsel Shri Lobo, that in future also a different decision could be taken ^{which} ^{Ans} will jeopardise the interest of the Applicant. We do not see such ¹ ^a difficulty in view of a categorical assurance in the Affidavit filed on behalf of Respondent No.1 dated 5.6.2000. Whether or not the policy decision will be changed, cannot be commented upon by the Tribunal just now but it is clear that the Applicant can be asked to vacate the present accommodation only if he is allotted another appropriate accommodation as committed to in the Affidavit. On the point made by Respondent No.1 that application should be made by Applicant to the Naval Authorities, Counsel for Applicant pointed out the letter at page 44 whereby the Army Wing in fact forwarded Shri Kheora's Application to GE Kunjali. This is objected to by the other side to say that in fact he has asked for Officers' quarter. There is a dispute between Learned Counsels on either side which need not be gone into, in view of the commitment ^{Ans} ~~position explained~~ in the affidavit. Be that as it may, the applicant is granted liberty ^{Ans} to submit another application addressed to the Chief Administrative Officer, Headquarter Western Naval Command, Shahid Bhagat Singh Marg. [This Officer is indicated in open court by learned Counsel for Respondents on instruction by Officers present, to be the correct authority.] This Application shall be considered, as promised in the Affidavit dated 5.5.2000. In any case Applicant cannot have a grievance now that he is not being removed from his present accommodation.



7. Before parting with this case we must state that it is not clear in the Affidavit now filed whether this is a general policy or whether further decisions are expected. We wish that the Affidavit, for filing which several months time have been given, could have more clear on this issue. I hasten to add, however, that this Tribunal would not go into the issue as what the policy ~~sh~~ should be. This is a matter that is best known to the Administration itself, and the Tribunal would not like to even advise Govt. in this regard. The point is that no inconvenience should result either as a result of incomplete or vague orders, or differences at the field level. It would be open the Govt. to make any decision of the Policy. However, in the present ~~case~~ ^{Brb} cases, based on the Affidavits now filed, the impugned orders will need to be quashed.

8. I now give attention to the other O.A. No.947/99 i.e. the case of Shri G. Pooranchandra who is a M.T. Driver Grade I in the Office of Chief Engineer (Navy). His case is similar to the Case of C.S. Kheora which is decided in the foregoing paragraphs. Shri Yelve, his Learned Counsel adopts the same line of arguments as of Mr. Lobo in C.S.Kheora's case.

9. In view of the above discussions the following orders are passed in the two OAs. before me:

ORDER IN O.A./390/99

The order of cancellation of accommodation dated 1.1.1999 of Staff Quarter as allotted to Shri Khoera (Annexure 14) is quashed and set aside.

Orders reg. penal/damage rent, are also quashed + set aside.

Brb

The Applicant shall be allowed to continue in his present accommodation on payment of normal rent till he is allotted another alternate accommodation as discussed above. Three weeks are granted to the Applicant (from the date of receipt of this Order) to make an application through proper channel to the appropriate authority pointed out in the order above.

ORDER IN O.A.947/99

The order dated 2.2.1997 (Annexure A-1) is quashed and set aside in so far as Applicant Pooranchandra is concerned. Similarly, the Order dated 15.6.99, Annexure A-2 regarding imposition of damage rent, is also quashed and set aside. The Applicant will continue in possession of accommodation on normal rent until allotted alternate accommodation as discussed above.

8. Under the circumstances there will be no orders as to costs.

B.N.Bahadur

(B.N.Bahadur)

Member (A)

bjb
sj*