

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 81/2000

Date of Decision : 27th May 2002

P.Raghavan Unni _____ Applicant

Shri S.Natarajan _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents

Shri R.R.Shetty _____ Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Shri S.K.Agarwal, Member (A)

- (i) To be referred to the reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other ~~No~~ Benches of the Tribunal ?
- (iii) Library *yes*

S.L.Jain
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.81/2000

Dated this the 27th day of May 2002.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Shri S.K.Agarwal, Member (A)

1. P.Raghavan Unni,
2. V.P.Haridas

SO/D BARC,
R/at B-4, B-14,
Rajnigandha, New Mandala,
BARC Colony, Anushaktinagar,
Mumbai.

...Applicants

By Advocate Shri S.Natarajan

vs.

1. Union of India
through the Secretary,
Dept. of Atomic Energy,
Anushakti Bhavan,
C.S.M.Marg,
Mumbai.

2. The Additional Secretary,
Dept. of Atomic Energy,
Anushakti Bhavan,
C.S.M. Marg,
Mumbai.

3. The Director,
C&S Group, Vikram Bhavan,
Anushakti Nagar,
Mumbai.

...Respondents

By Advocate Shri R.R.Shetty

..2/-

Pl. Dated

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that the applicants are entitled to allotment of quarters in terms of their position in the permanent priority list prepared in 1996 and in any case, in accordance with the priority list prepared in accordance with Circular dated 21.10.1997 (Ex.A-3) or Circular dated 17.12.1997 (Ex.A-6) including the names of only those who had applied within the last dates prescribed therein with the direction to the respondents to issue orders of allotment of 'D' Type quarter to the applicants forthwith.

2. The Applicant No.1 and 2 were appointed as Scientific Assistant 'A' on 2.8.1980 and 31.12.1980 respectively. After due promotions working as Scientific Officer 'D' in BARC Mumbai, they are in occupation of Type 'B' quarters while they are entitled to Type 'D' quarters.

3. By a Circular No.5/7(32)/95-SS/2213 dated 3.8.1995 (Ex.A2) policy was laid down based on the recommendations of Sundaram & three other officers' Committee regarding allotment of quarters. As per the said policy, a permanent priority list was to be prepared of eligible employees, the name of an employee is deleted only on allotment of accommodation of the type for which

8.8112 -

.3/-

he is entitled. The Directorate of Estate Management was to prepare and operate Permanent Computerised Priority List for different categories effective from 1.1.1996 which is valid for 3 years and updated once in six months on account of movement of employees into higher eligible pay scales or entry into or exist from Bombay for employment reasons. Accordingly, the names were called for, the said Permanent List was prepared and operated in the year 1996.

4. The Directorate of Estate Management issued a Circular bearing No.1/19/98 E-I dated 21.10.1997 indicating the said list to be a permanent list and adding - "Employees who did not apply earlier but intend to do so." It further stated that the names of employees who have been transferred to Mumbai will be added based on their applications forwarded as soon as after actually joining duty in their respective units in Mumbai. The said Circular prescribed the last date for application as 21.11.1997. By a Circular dated 26.11.1997 No.1/19/97-E-1/6263 a reminder was issued to the employees to apply strictly adhering to 21.11.1997. By a Circular No.1/19/97-E1 dated 21.11.1997, it is stated that priority list would be made/circulated for allotment for those employees who furnished the requisite applications for allotment of accommodation in Mumbai (Ex.A-5). Subsequent to the last date, a Circular No.1/19/98-EI/6643 dated 17.12.1997 was issued stating the extending of the last date for submission of applications to 26.12.1997 (Ex.A-6). Vide Circular No.1/19/98/E1 /1582 dated 2.5.1998, it was intimated that the priority list for

P.C.8011

..4/-

the year 1998 based on priority list of 1997 and applications received against the circular dated 21.10.1997 allotment was likely to take place from 13.5.1998 (Ex.A-7). By another circular dated 12.5.1998, the priority list so prepared was circulated and the said list was operated from 13.5.1998, as earlier announced (Ex.A-8).

5. Applicants Nos.1 and 2 appeared at Sr.No.200 and 207 for 'D' Type quarters. By June, 1998 orders for allotment upto Sr.No.152 were issued for Type 'D' quarters.

6. The respondents issued the Circular No.1/19/98-E1 dated 15.5.1998, it was further stated that in case still there were some employees who were desirous of taking allotment during the year, they may send their application on or before 5.6.1998. The Respondent No.3 continued with the allotment as per list published on 12.5.1998. Vide Circular No.1/19/98-E1 dated 9.7.1998, it was stated that a few more applications were received after 5.6.1998 for inclusion and the said applications would be considered for limited option.

7. The applicants represented against the unauthorised and illegal calling of the applications time and again which was decided vide letter No.5/3(53)/98 SUS/111 and 112 dated 18.2.1999 (Ex.A).

P.C.8015

8. The grievances of the applicants are that priority list for 1996 prepared and operated till June, the Respondent No.3 had no authority, power or justification for calling fresh applications for inclusion in the list. The priority list prepared in 1996 is valid for 3 years. The action of the respondents in constantly and frequently adding names to the priority list is illegal being contrary to the policy and orders on the subject.

9. The learned counsel for the respondents relied on an order passed in OA.NO. 983/95 and 1251/95 dated 2.5.1997 wherein the matter relating to Department of Atomic Energy regarding policy of allotment of quarter was subject of consideration and in para 44 of the said order the Tribunal has held that :-

"In the light of the above discussions, I have no doubt that the Department of Atomic Energy does have competence to frame its own rules relating to the allotment of accommodation which comprises the power to amend the rules and that the O.M. dated 31.7.1995 and the preceding O.Ms. which hold the field cannot also be challenged on the ground of violation of Articles 14 and 16 of the Constitution."

In para 49 the Tribunal has held that :-

"I have already observed that the department has competence to frame its own norms and it had only sought the advice of the Ministry of Urban Development before making up its mind and the circular dated 25.8.1987 mainly applies to construction and in any case, it is not binding on its entirety on the Atomic Energy Department."

J.(S)u/..6/-

Thus, it is clear that rules relating to allotment of accommodation, the Department of Atomic Energy have competence to frame and also to amend the same.

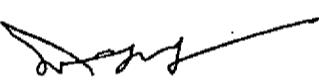
10. It is true that a permanent priority list prepared in 1996 is in existence. Thereafter, vide Circular dated 21.10.1997 the respondents decided to incorporate changes that would be maintained in the permanent priority list mentioned in the said Circular. The learned counsel made the grievance that at Sr.No.5 "employees who did not apply earlier but intend to do so" were added. By the said Circular permanent priority list was said to be changed. In view of the said Circular, the applications were to be submitted by 21.11.1997 which were reiterated vide Circular Annexure-IV dated 20.11.1997, 21.11.1997 (Ex.'A-5') and Circular dated 17.12.1997. The date was extended to 26.12.1997. Vide Circular dated 15.5.1998 the date is extended upto 5.6.1998. Vide Circular dated 19.7.1998 it is mentioned that if the applications received even thereafter will be considered only for option. It is worth mentioning that as far as the policy decision dated 21.10.1997 is concerned, the applicants can have no grievance.

11. As there is a permanent priority list for allotment of accommodation which is in view of the decision of the respondents themselves, any policy decision subsequent thereto can be applied/ adopted prospectively and the applications received in view of the said policy decision cannot affect the position of

S. V. M.

the earlier priority list for allotment of accommodation. If this principle is not allowed to stand, the decision of the respondents is bound to suffer with arbitrariness. The applicants whose names have already find place in the priority list of allotment of accommodation cannot be changed and applications received thereafter shall be considered as a separate group of applications in order of the policy decision of the respondents.

12. In the result, OA. is allowed. Applicants are entitled to allotment of quarter in terms of their position in the permanent priority list prepared in 1996. The respondents are directed to issue order of allotment of 'D' Type quarter to the applicants as per their turn in order of list, i.e. Permanent Priority List prepared in 1996. No order as to costs.


(S.K.AGARWAL)

MEMBER (A)


(S.L.JAIN)

MEMBER (J)

mrj. Order/Judg. No. 271512
to Appellant & Co-Appellant (s)
20/6/2002

