

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. . . 262 of 2000.

Dated this _____ the 20th day of November, 2000.

Inder Paul Bansal, _____ Applicant.

Shri Kotangle, _____ Advocate for the
applicant.

VERSUS

Union of India & Others, _____ Respondents.

Shri V. S. Masurkar, _____ Advocate for
Respondents.

CORAM : Hon'ble Smt. Shanta Shastry, Member (A).

(i) To be referred to the Reporter or not ? | No

(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?

(iii) Library.

Shanta Shastry
(Smt. SHANTA SHAstry)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO. : 262 of 2000.

Dated this ----- the ----- day of ^{29th} November 2000.

CORAM : Hon'ble Smt. Shanta Shastry, Member (A).

Inder Paul Bansal,
Judicial Member,
Income Tax Appellate Tribunal,
Central Government Offices Bldg.,
4th floor, 101 M. K. Road,
Mumbai.

... Applicant.

(By Advocate Shri Kotangle).

VERSUS

1. Union of India through
The Secretary,
Ministry of Urban Affairs
and Employment,
New Delhi.
2. The Director of Estates (Regions),
Directorate of Estate Government
of India, Nirman Bhavan,
New Delhi - 110 012.
3. The Estate Manager,
Pratiksha Bhavan,
101, M. K. Road,
Mumbai - 400 020.

... Respondents.

(By Advocate Shri V. S. Masurkar)

O R D E R

PER : Smt. Shanta Shastry, Member (A).

The applicant in this O.A. has prayed for the following reliefs :

- (i) To direct the respondents to allot the Type-V quarters on priority basis only at Hyderabad Estate, Mumbai, near the place of work.
- (ii) To direct the respondents to produce the entire records of the case before adjudication of the points at issue.

The applicant is a Judicial Member of the Income Tax Appellate Tribunal, who has been posted in Bombay after selection and training vide order dated 31st December, 1999 of the President of the Income Tax Appellate Tribunal (I.T.A.T. for short). He took charge of the post on 5th January, 2000 and applied for allotment in terms of his entitlement to Type-V quarters in view of circulars dated 4th July, 1986 and 14.09.1992 (Exhibit C-I and C-II). The applicant submits that in the waiting list published in January, 2000, he was shown at No. 1 for both types of accommodation, although by out of turn allotment policy he should have been at serial No. 4 for type-V.

The respondents allotted to him Type-V Quarters at Ghatkopar, initially which the applicant occupied. He further requested for change ^{to} Type IV (special) in Hyderabad Estate. This request was also granted.

The applicant is aggrieved that he has not been allotted Type-V quarters in Hyderabad Estate on priority basis.

According to the Learned Counsel for the applicant, the applicant is entitled for Type-VI Quarters as per rules and if type-VI is not readily available, atleast Type-V quarter should have been allotted to him in Hyderabad Estate. It is the claim of the applicant that being a Judicial Officer, it is incumbent on the part of the Government to provide accomodation to him in terms of the judgements of the Rajasthan High Court and the Supreme Court in the case of All India Judges Association V/s.

Union of India. Keeping in view the fact that he has to share the staff car and come from a long distance, he deserves to be allotted accomodation in Hyderabad Estate only for efficient discharge of his judicial functions. He is not to be treated like a State Government officer, as judiciary is independent.

2. The respondents have filed their written statement and submit that no doubt the applicant is entitled to Type-VI Quarters as per his emoluments. Since he is very junior in terms of date of priority for Type VI, he is entitled for Type-V accomodation in terms of O.M. dated 14.09.1992. As regards Type-V accomodation, the initial allotment of accomodation is to be made at Ghatkopar or New Mumbai in terms of SR-317-B-7 as there is huge waiting list for Hyderabad Estate. Even then, the applicant was allotted Type-V quarters initially at Ghatkopar and he occupied the same from 03.03.2000. He made a representation on 13.01.2000 for allotment of Type IV special accomodation at Hyderabad Estate, Nepean Sea Road. He was allotted Type IV (Special) Quarter No. H-21 at Nepean Sea Road and he took possession on 06.05.2000 and vacated the type ~~IV~~ accomodation at Ghatkopar. The standing instructions of the Government are to provide 'out of turn' allotment in the next below category to officers recruited directly at intermediate higher level. By allotting Type-V quarters at Ghatkopar and subsequently Type-IV (special), the respondents have implemented the directions of the Supreme Court in its true spirit. The Hon'ble Apex Court has directed to provide official residence to every judicial officer but has not made any specific order with regard to allotment of entitled type of accomodation or that such accomodation be given in desired locality. The Hon'ble Mumbai High Court also accepted

the stand taken by the Government in Writ Petition No. 2496/96 (K. Shivaram & Another V/s. Union of India & others). Moreover, the Ministry of Law has filed S.L.P. (Civil) No. 6906/1998 against the interim order dated 29.01.1998 passed by the Hon'ble High Court of Rajasthan, Jaipur Bench.

Similarly, a Writ Petition No. 808/2000 challenging the order passed in a similar case being O.A. No. 493/99 in R. P. Tolani V/s. Union of India has been filed and the same is listed for regular hearing before the High Court.

3. I have heard the Learned Counsel for the applicant as well as respondents. It is not disputed that the applicant by virtue of his status, as a Judicial Member is entitled to 'out of turn' allotment of Type-V quarters i.e. one below his entitlement. I find that the respondents have complied with the instructions contained in the O.M. dated 14.09.1992 by allotting type-V quarter immediately. The only sore point is, it is at Ghatkopar. There is no rule or provision that such 'out of turn' allotment should be made in Hyderabad Estate alone. Since the applicant, being very junior, has to wait for his turn to get the accommodation of the type he is entitled to. His request to accommodate him in Type-IV (special) has also been granted promptly. The respondents, in my considered view, cannot be faulted at all. It is certainly desirable that the applicant should get a quarter in Hyderabad Estate in the interest of efficient discharge of duties but considering the tight position in regard to residential accommodation, it may not always be

possible to provide the quarter initially in Hyderabad Estate. Taking into account the hardships pointed out and especially in view of sharing of the vehicle, the respondents are directed to consider giving priority to the applicant in allotting the Type-V quarter, in Hyderabad Estate.

4. The application is disposed of accordingly. I, however, do not order any costs.

Shanta F
(Smt. SHANTA SHASTRY)
MEMBER (A).

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