

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 483/2000

DATE OF DECISION: 12/12/2000

Shri L.K.Kamble & Anr.

Applicant.

Shri S.S.Karkera

Advocate for
Applicant.

Versus

Union of India & 2 Ors.

Respondents.

Shri V.S.Masurkar

Advocate for
Respondents.

CORAM:

Hon'ble SMT. SHANTA SHAstry, 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?
3. Library. Yes

Shanta S
(SHANTA SHAstry)

MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:483/2000
DATED THE 12th DAY OF DEC. 2000**

CORAM:HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

1. Shri Laxman Kanu Kamble,
Retired Plumber of CPWD,
(Urban Area & Employment),
Residing at Quarter No.2342,
Block No.200, Sec.VI.CGS Quarters,
Antop Hill, Mumbai - 400 037.

2. Shri Harishchandra Laxman Kamble,
Working as Chowkidar in Indian
Audit & Accounts Department,
Residing at Quarter No.2342,
Block No.200, Sec.VI. CGS Quarters,
Antop Hill, Mumbai - 400 037.

... Applicants

By Advocate Shri S.S.Karkera

V/s.

1. The Union of India,
Through the Director of Estates,
O/o.Directorate of Estates,
Government of India, Nirman Bhavan,
New Delhi - 110 001.

2. The Estate Manager,
Govt. of India, 3rd Floor,
Old CGO Bldg, Annex.-11.
101, Maharshi Karve Road,
Mumbai - 400 020.

3. The Director,
O/O. Principal Director of
Audit, Central Mumbai,
Audit Bhavan, C-25, Bandra
Kurla Complex, Mumbai-51.

... Respondents.

By Advocate Shri V.S.Masurkar for R-1 & 2.

...2.

Per Smt. Shanta Shastry, Member(A).

Heard Shri S.S.Karkera for the applicant and Shri V.S.Masurkar for the Respondents. Applicant No.1 was working as Plumber in the CPWD at Urban Area & Employment and retired on superannuation on 31/1/2000. Applicant No.2 the son of Applicant No.1, has been appointed a Chowkidar w.e.f. 16/11/98 under Respondent No.3. The applicant No.1 was allotted different quarters from time to time and was finally reallocated quarter No.200/2342, Sector - VI, where he resided alongwith applicant No.2. The applicant no.2 applied for regularisation of the quarter allotted to his father in the applicant no.2's name on father to son basis. However, the same has been rejected on the ground that the applicant who belongs to the Indian Audit and Accounts Department is not eligible for allotment from the General Pool accommodation because the Indian Audit and Accounts Department has its own quarters. Aggrieved by this, the applicant has approached this Tribunal.

2. It is the contention of the applicant that he fulfills all the conditions for allotment of his father's quarter in his name under the OM dated 19/11/87 and the subsequent OM dated 20/5/99. ^{wherein} _A the Government of India's order for allotment of quarters to dependents/relations of Government employees on their retirement have been spelt out. In these OMs, nowhere has it been stated that if an employee belongs to another organisation having its own pool of accommodation, he will not be entitled to General Pool Accommodation.

3. The learned counsel for the applicant has also invited my attention to an order dated 12/3/98 in OA No.566/97, wherein the

facts were similar. In this judgement, it was held that the applicant was entitled for consideration of allotment of quarter from father to son basis. The applicant No.2 therein was permitted to retain the quarter of his father till a type-I quarter was allotted to him. It was also directed that the dispute between the Estate Manager and Audit Department should be resolved through their official channel. The Estate Manager would be free to allot a Type-I quarter temporarily to Applicant No.2 to get the Type-II quarter vacated by Applicant No.1 till the dispute as to who will finally allot the quarter to Applicant No.2 is resolved by Audit Department and Estate Manager.

4. Learned Counsel therefore pleads that the present applicant's case being covered by the aforesaid order, the Applicant No.2 is entitled for allotment of quarter from the General Pool.

5. The Learned Counsel for the respondents, while admitting that the applicant fulfills the conditions for allotment of accommodation on father to son basis submits that since the Audit Department has its own pool of accommodation, the applicant should have applied to that department. Similar cases ⁴ were filed in the Tribunal and in some of the cases, the Tribunal allowed the OAs with directions to temporarily allot accommodation in the General Pool. Considering the large number of such decisions⁴ the respondents in similar other cases ^{have} filed SLP. Learned Counsel states that two SLPs have been filed in the Supreme Court, one of them being SLP No.CC 5826/97, emanating from the judgement in order dated 30/7/96 in OA-401/96. The Hon. Supreme Court has stayed the order as is evident from the record of the proceedings produced by the learned counsel.

6. I have carefully considered the arguments advanced on both sides. In my considered view, the applicant's case is fully covered by the Judgement in the case of M.R.Raut and Anr. V/s. Union of India & Ors in OA-566/97 decided on 12/3/98. Although stay has been granted by Hon. Supreme Court in another case, as yet no decision has been given, nor have the earlier orders been set aside or quashed. I therefore would like to follow the judgement in the case of M.R.Raut (supra) and direct the same relief to be granted to the applicant in this case as given in para -7 of the judgement in the case of M.R.Raut (supra). Further, the applicant is also directed to apply for quarter in the pool of accommodation under the control of the Audit Department, till then, he may be allotted a quarter as per his entitlement in the general pool on father to son basis. He shall vacate the same as soon as he is allotted a quarter from the Audit Department.

7. The OA is disposed of at Admission Stage accordingly with no costs.

Shanta S-
(SHANTA SHAstry)
MEMBER(A)