

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO: 767/2000
DATED THE 7th DAY OF Feb. 2001**

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

1. Subhash T Dumbre (Painter)
2. M. Gopal (Vendor)
3. G.B. Palande (Mazdoor)
4. S.L. Sawant (L.D.C)
5. D.R. Hiremath (L.D.C.)
6. S. Pushparaj (U.D.C.)
7. K.P. Paniker (Cook)
8. Nazeem Hussen (Barber)
9. K. Selvaraj (Mazdoor)
10. V.W. Jaipatkar (U.D.C.)
11. Smt. M.R. Makaji (Mazdoor)
12. S. Awad (Mazdoor)
13. R. Swamy (Mazdoor)
14. R.S. Randive (Mazdoor)
15. Smt. Heera Bai (Mazdoor)
16. Munilal (Mazdoor)
17. M.S. Yadav (Messenger)
18. Jeet Singh (Cook)
19. Mehaboob Shaikh (Barber)
20. Peer Mohammad (Barber)

... Applicants

All the Applicants are employed in the office of Commandant Central Armoured Fighting Vehicles Depot, Kirkee, Pune - 3.

By Advocate Shri S.P. Saxena

V/s.

1. Union of India,
Through The Secretary,
Ministry of Defence,
New Delhi - 11.
2. Director General of Ordnance Services,
M.G.Os Branch,
Army Headquarters,
DHQ Post Office,
New Delhi - 11.
3. The Commandant,
C.A.F.V.D., Kirkee,
Pune - 3.

... Respondents

By Advocate Shri R.K. Shetty

(ORDER)

Per Smt. Shanta Shastri, Member(A)

The applicants* are aggrieved that they have been asked to vacate Dhobiline quarters and Ghoda line quarters where they

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have been staying, by 30/10/2000. The applicants have prayed to allow the OA and direct the respondents to arrange for some alternative accommodation for the applicants.

2. The applicants are regular civilian employees working under the Commandant C.A.F.V.D., Kirkee, Pune and have been occupying various posts. There is a Mess attached known as CAFVD Officers Mess. A large number of quarters are located in the vicinity of this Mess. These quarters have been used to cater to the servants employed at the Mess. With the passage of time the facility has been extended to Government civilian employees of CAFVD. Applicants 1 to 8 are staying in Dhobi line quarters and are paying Rs.400/- p.m. per applicant to the in charge CAFVD Mess by way of rent. Applicants 9 to 11 stay in separate garages and are paying rent of Rs.300/-p.m. The remaining applicants stay in the Ghoda line quarters and pay Rs.300/-p.m. each. No official receipt is given for the rent paid. The applicants also pay electricity charges at a flat rate every month for which also there is no receipt. They have been residing here since past 6 to 18 years starting from 1982 to 1994. Some of them are also utilised as Mali and waiter in the Mess viz. Shri Khandale, Shri D.N.Shelke, Shri Lonker, Shri Mansingh and Shri D.Shankara Rao though regular employees like applicants, they have not been ordered to vacate the quarters occupied by them. Others who are working in the Mess, but though not Government servants have also not been asked to vacate the quarters.

3. Some three quarters are still vacant today. There is no urgent necessity for respondents to order vacation of quarters by 30/10/2000. In addition to the applicants there are another 20 Government employees attached to Respondent No,3 who have not

been asked to vacate the quarters they are staying in.

4. The Respondent No.3 is the Chairman of the Mess Committee. He has published Standing Operative Procedure (SOP) (Annexure-2). According to para-3(b) allotment of servant quarters to civilian Government Employees of CAFVD is permissible.

5. The applicants have been paying regular rent, electricity charges regularly without default in terms of para 9 of SOP. On holidays the applicants are also engaged to do work of cleaning painting and other jobs free, inside the Mess. They are also called at odd/night hours/holidays to perform loading unloading operation from Railway Wagon. Though there are 2000 employees no official quarters are constructed so they are compelled to stay here.

6. Respondent No.3 by making mutual arrangement with the General Manager Ammunition Factory Kirkee has allotted quarter to nearly 70 employees.

7. The applicants apprehend being thrown out their children are studying in different classes. Eviction will affect the school going children.

8. The respondents submit that they have received a series of warnings regarding security threat from various institutions including the Army Headquarters Southern Command with regard to threats from militants, ISI agents and other security risks. So they are forced to evict the applicants. Para 8 of SOP clearly states that Civil staff on wages will be entitled to stay till they remain in service of Mess. However civilian employees like the applicants will be permitted to stay for a maximum period of five years. They have enclosed details of the period for which

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these applicants have been staying in the accommodation in question i.e. between 5 to 20 years. However, they are liable to be evicted at any time as per para 14 which calls for only a minimum of one day and maximum 7 day's notice at discretion of Mess Committee i.e. Deputy Commandant CAFVD.

9. The applicants are being paid HRA. Only a paltry sum is being collected towards maintenance & upkeep. There is no question of alternate accommodation as there are no quarters in the CAFV Depot quota allotted to civilians. The matter had been taken up with Station Headquarter, Kirkee, Aundh but they have categorically stated that no accommodation is there as still army personnel and troops are without quarters, they need to be given quarters on priority.

10. Only those not permanently attached to the Mess are therefore being sought to be removed. The learned counsel for the applicants argued that it is irrational, illegal to throw out the applicants after five years. Clause 8 is arbitrary. Besides this, the respondents themselves have been permitting the applicants to stay even beyond five years continuously. Some of the applicants have continued to stay in these quarters even upto 15 to 20 years. Therefore, now the respondents are estopped from justifying the limit of five years for occupation of the quarters. However, the quarters are not type-I quarters. They have perhaps even outlived their assessed life. Since these quarters are not clasified quarters, the applicants have been allowed to pay towards the maintenance and also draw the HRA at the same time. The respondents have not objected to it at any time. The learned counsel also points out that no Army Personnel or Troops posted in the Depot have asked or stayed in

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the aforesaid quarters as it is not for their status. It is not considered for allotment to even married JCOs, Havalgars, Nayaks, Sepoys, etc. None have however come to stay there during the past few decades. There are 38 quarters. The number of non government employees attached to the Mess is small and therefore the remaining quarters have been allotted to the applicants. The learned counsel further contends that the main reasons given for evicting the applicants are that there is a security risk and according to the SOP no allotment can be allowed to exceed five years. The applicants are responsible civilian employees and no suspicion can be cast on their being a risk to security. They have stayed there without any complaints. Security threat would be there in the entire cantonment area. It cannot therefore be attributed only to the applicants when Mess employees who are non officials are being allowed to stay in these quarters. According to the applicant no convincing reasons have been advanced by the respondents to oust the applicants. Also the SOP is not a legal document. They are merely facilitating rules. The respondents also have not denied that the applicants behaviour has in no way been undesirable. Therefore, the reasons given by respondents do not cut any ice.

11. I have heard the learned counsel for both the sides. The only reason put forth is that of security risk. In my considered view, the applicants cannot be singled out as being a security risk especially when they have been allowed to occupy these quarters for the past so many years and also they are serving Government servants. It is equally true that the respondents have not insisted on the implementation of the rule regarding allotment of the quarters for a maximum period of five years

only. But they cannot be prevented from implementing the same at any time. The respondents produced a letter to show how the authorities are concerned over the risk and how they would like to minimise the security risk. I cannot accept this. At the same time, the respondents have taken a policy decision not to continue the allottees of these quarters any further and not to allot to anyone except those who are directly working in the Mess. I cannot therefore interfere with this decision of the respondents. However, considering that it is not easy for the applicants to vacate the quarters at such short notice after having settled in these quarters and especially when no alternate accommodation is available, I am inclined to grant a longer period to the applicants to vacate these quarters.

12. Respondents are therefore directed to grant to the applicants time upto 30/6/2001 to vacate the quarters and in the meantime the applicants shall find alternate accommodation. The OA is disposed of accordingly. No costs.

Shanta
(SHANTA SHASTRY)
MEMBER(A)

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