

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 358 OF 2001

Dated this 14<sup>th</sup> the Dec day of 2001

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

1. Shri Linganna Buchanna  
MES - 104061, Mastercraftsman  
C/o BSO (NW) Kunjali  
8 Moude Lane, Colaba  
Mumbai 400 005 ... Applicant.

(By Advocate Shri K.S.Kallapura)

VERSUS

1. Union of India, through  
the Secretary  
Ministry of Defence  
South Block  
New Delhi 110 011

2. Engineer-in-Chief  
Army Headquarters  
Kashmir House  
DHO PO, New Delhi 110 011

3. Chief Engineer  
Southern Command, Pune-1

4. Chief Engineer (NW)  
26 Assaye Building  
Colaba, Mumbai 400 005

5. Commander Works Engineer (NW)  
Dr Homi Bhabha Road  
Navy Nagar, Colaba  
Mumbai 400 005 ... Respondents.

(By Advocate Shri R.K.Shetty)

O R D E R

PER : Shri S.L. Jain, Member (J).

The applicant has sought the relief to set aside  
the order dated 23rd April 2001 No.2101/B/1852/E2B  
Issued by the Garrison Engineer (NW) Kunjali.

The applicant was allotted Quarter No.2/21 Type I  
situated at Navy Nagar Mumbai Vide allotment order

...2/-

No.2101/B/1851/E 2B dated 23rd April 2001 which is kept in abeyance till further orders vide the impugned order referred above.

The applicant who is 'master crafman' since July 1996 was in occupation of Quarter Type I since 1975. On account of his being promoted as 'Master Craftman' he applied vide application dated 30.03.99 for change over of accommodation from Type I to Type III followed by letter dated 24.3.2001 and in pursuance thereof Querter No.2/21 Type 3M situated at Navy Nagar Mumbai was allotted to him. The MES Employees union represented against the said allotment resulting passing of the impugned order.

The applicant claims that as per accommodation policy as 'MES key personnel' he is entitled to allotment in his favour keeping his duties in mind.

Vide Annexure R/2 dated 26th June 1999 the respondents have issued the list of MES Employees categorised as key personnel for providing accommodation containing the Master Crafts man as one of the post at serial No.6. The criteria for determining the key personnel is as under

"An individual whose services are considered inescapable in the proximity of an installation by virtue of his trade and designation and where requirements may arise at a short notice for attending to the maintenance and operation of installations after working hours, irrespective of the time of the day can be considered to be a key personnel".

He further claims that quantification is to be done by a station Board of officer orderd by the Station Commander having representatives of both the Station

...3/-

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Commander and MES (CW E/CE) concerned. Such quantification may be reviewed every two years depending on the increase/decrease in that Station. His claim is in view of para 8 and 9 of R/1 which is as under:-

8. "A key personnel may seek change of accommodation in the same class after completion of 6 months in the allotted They would be regulated as follows:-
  - a) A separate seniority roaster would be maintained by concerned GE/CWE for change of accommodation.
  - b) Only one change of accommodation would be permissible in the same class.
  - c) The date of receipt of application would reckon the seniority for change of accommodation provided individual has completed 6 months in allotted accommodation.
9. A change in higher type of accommodation may be permitted subject to the condition that the individual is eligible for the same in terms of emoluments and seniority.

The respondents have taken action vide their resolution dated 15.12.1998 regarding quantification of MES Key personnel quarter (R/6), two Master Craft man are authorised to hold the accommodation but the name of the applicant is not mentioned in the list attached to it (OA Page 66).

The applicant contends that the said proceedings are in view of letter No.42179/83 dated 29th October 81 and No.42179/83 dated 15 December 98 without taking cognizance of the latest letter No.45870/POL/E 2W(PPC) E -in -Cis List 'A' and 'B' dated 23.2.1999 which supersedes the list circulated vide their letter No.45870/E-2(W PC) dated 17th February,1983. It is true that proceeding dated 30.7.1998 does not take cognizance of list dated 23rd February,1999. Which was even not possible as the said letter is later in time.

The applicant has not challenged nor alleged the applicability of R/6 in view of the subsequent decision vide letter dated 23rd February,1999 and the policy of

qualification is to be review every two year. The said period of two years has lapsed on 15.12.2000, though it is discretionary to review in this respect immediately after two years, but looking to the situation and facts of the case, I am of the considered opinion that the respondents ought to have review<sup>✓</sup> the policy regarding qualification. Hence, the best which can be done in the present case is to direct the respondent to review the policy regarding qualification further a period of six weeks, till then interim order dated 9.8.2001 shall continue to operate and then decide the application's case regarding allotment in view of the said decision. OA desposed of with the above direction with no order as to cost.

8.1.01/14/101  
(S.L.Jain)

M(J)

dt. 14/12/01  
order/Judgement despatched  
to Applicant, Respondent(s)  
on 27/12/01

M

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

REVIEW PETITION NO.34/2002  
IN  
ORIGINAL APPLICATION 358/2001

Shri Linganna Buchanna  
MES-104061, Mastercraftsmen  
C/o BSO (NW) Kunjali  
8 Moude Lane, Colaba,  
Mumbai - 400 005

...Applicant

( By Advocate Shri K.S. Kallapura)

V/s

Union of India, through  
the Secretary,  
Ministry of Defence,  
New Delhi & ors.

...Respondents

(By Advocate Shri R.K. Shetty)

TRIBUNAL'S ORDER :

DATE : 11.11.02

The applicant is seeking directions to the Respondents that quarter No.S/1 Type III shall be allotted to the applicant by modifying the order, to initiate contempt of court proceedings against respondents, interim relief as stated later is also claimed.

O.A.NO.358/2001 was disposed of on 14th December, 2001 with direction to the respondents to review the policy regarding quantification within a period of six months, till then interim order dated 9.8.2001 shall continue to operate and then decide the applicant's case regarding allotment in view of the said decision.

REB/ —

Contd..2.

- 2 -

The respondents filed M.P.228/2001 on 4.10.2001 for extension of time which was allowed and time was extended to comply the said order up to 31.5.2002. Thereafter the present petition is filed on 27.6.2002 seeking the reliefs as stated above which is termed as Review Petition 34/2002. I have carefully perused the petition and arrived to the conclusion that no ground as mentioned under order 47 rule 1 C.P.C. for review of the order is mentioned. The ground stated in para 4 and 5 of the petition are subsequent events which can not be taken into consideration for review <sup>of</sup> the order. As such the prayer for review of the order stands rejected.

The applicant has also claimed as an interim relief and further relief to initiate contempt of court proceedings against the respondents. It is not a desirable practice to add more than one prayer having no <sup>✓</sup> nexus with each other in one petition. As the application is filed on 27.6.2002, it is not known what is the present state of affairs. Therefore it is directed to the applicant to state in writing the present state of affairs.

The petition termed as review petition shall be deemed to have been disposed of and the Contempt Petition survives.

List the case for orders 21/11/01

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

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

CONTEMPT PETITION NO:12/2003 in  
ORIGINAL APPLICATION NO: 358/2001

TRIBUNAL'S ORDER

DATED: 25.4.2003

Shri K.S. Kalapura counsel for the applicant.

Shri R.K. Shetty counsel for the respondents.

2. This Tribunal while considering the question of Contempt Petition vide order dated 21.3.2003 gave the following directions:

In our considered view, on the basis of the review carried out, the respondents ought to have considered and examined the case of the applicant and given him a suitable reply which has not been done by the respondents. We gave them further one month's time to examine the case of the applicant in the light of the Board Proceedings and give him a suitable reply. The Contempt Petition is held back till then.

3. Shri Shetty counsel for the respondents submits that Reply, as directed by the Tribunal has already been given to the applicant. The learned counsel for the applicant however makes the grievance that after considering the Board Proceedings mentioned in the order were not the fresh Board Proceedings but the earlier Board Proceedings. In the Contempt Proceedings we have not entered gone into the interpretation of the order. Here the direction given by the Tribunal have already been complied by giving suitable reply to the applicant. If

the reply does not satisfy the applicant or the same is not of <sup>his</sup> liking, the applicant cannot proceed <sup>in further case</sup> for initiation of contempt against the respondents.

4. We do not see any merit in the Contempt Petition and dispose of the same by discharging the notice on contempt. Contempt Petition stands disposed of.

*Shankar Prasad*

(Shankar Prasad)  
Member(A)

*A.S. Sanghvi*

(A.S. Sanghvi)  
Member(J)

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