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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1168/92

~~Transfer Application No:~~

DATE OF DECISION 22.1.1993

Shri Habib Khan Mehboob Khan Petitioner

Shri C. Nathan Advocate for the Petitioners

Versus

General Manager, Ordnance Factory, Respondent
Bhusawal & Anr.

Shri Ravi Shetty for Sh.R.K.Shetty Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Sug
(S.K.Dhaon)
Vice Chairman

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 1168/92

Shri Habib Khan Mehboob Khan

... Applicant

V/S.

General Manager,
Ordnance Factory,
Bhusawal & Anr.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon

Appearance

Shri C.Nathan
Advocate
for the Applicant

Shri Ravi Shetty
for Shri R.K.Shetty
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 22.1.1993

(PER: S.K.Dhaon, Vice Chairman)

The applicant was employed in the Ordnance Factory. On the recommendations of the Medical Board, his services were terminated w.e.f. 22.9.1990. During service he was allotted Quarter No. 7/52 (Type-II) Ordnance Factory Estate, Bhusawal (hereinafter referred to as accommodation in question). He did not vacate the said accommodation even after the termination of his service. He was called upon to do so. He made an application praying that his son, A.K.Rahi, may be given a suitable employment on compassionate ground. He also prayed that, in case the appointment was given, the accommodation in question may be allotted to his son. He further prayed that till the matter of the appointment of his son was not disposed of, he may not be evicted from the accommodation in question. He was being pressed to vacate the accommodation in question and was even threatened with eviction proceedings under Public Premises (Eviction of unauthorised occupants) Act 1971. At that stage, he came to this Tribunal by means of this application.

2. On 11.11.1992 this Tribunal passed an interim order restraining the respondents from evicting the applicant and his dependents from the accommodation in question. This Tribunal made it clear that the eviction proceedings, if any, may continue.
3. A reply has been filed on behalf of the respondents. To the reply, copies of the orders dated 26/30.10.1992 and 11.11.1992 passed by the Director General, Ordnance Factories have been Annexed. I am informed that during the pendency of this application proceedings under the PPE Act were initiated and 28.1.1993 is now the next date of hearing before the Estate Officer.
4. The aforementioned two orders of the Director General, Ordnance Factories are not ^{communications} ~~connected~~ to the applicant. They are, in fact, communications sent by the Director General to the General Manager. In the first communication the subject is : "employment assistance on compassionate grounds to Shri A.K.Rahi, son of Shri H.M.Khan, Ex.T.No.2210/MM of OFB who was medically boarded out". The substance of the communication is that the ~~proposal~~ ^{proposal} for appointing the applicant's second son, A.K.Rahi, had been rejected on the ground that he has an employed son and he is getting pension including military pension. In the second communication, the substance of the first communication had been repeated. It is again reiterated that the question of appointing the second son on compassionate ground does not arise when the second son is employed.
5. On 8.4.1991 the applicant sent a communication to the General Manager Ordnance Factory, Bhusaval praying that an appointment on compassionate ground may be given to his eldest son, A.K.Rahi. In this communication the applicant

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pointed out that he has three sons, viz., S/Shri Rahi, Saudagar and Tanveer. He had emphasised that Rahi was his eldest son. He also admitted that one of his son Tanveer was employed somewhere in Central Railway. He, however, categorically stated that Tanveer had left the house about 2½ years back in a huff. In fact, he ran away from the house. He had no connection with the family. He was not providing any monetary help to the family. He also pointed out that these facts could be verified.

6. It appears that the Director General was under some misconception when he thought that A.K.Rahi was the second son of the applicant. That fact will not, however, invalidate the decision taken by the Director General. The crucial question of facts to be decided by the Director General was whether one of ~~the son of the~~ applicant was employed elsewhere and, if so, what would be the impact of such an employment of such a son upon the application made by the applicant that his eldest son, Rahi, may be given an appointment on compassionate ground. The Director General completely ignored the specific case set up by the applicant that his youngest son Tanveer who was employed some where in Central Railway had nothing to do with the family and he was not giving any support whatsoever to the family. The Director General, therefore, failed to adjudicate upon a crucial pleading of the applicant. His decision, therefore, is not sustainable.

7. Since the Estate Officer is not a party to this ~~application, this~~ Tribunal cannot pass any order restraining that officer from proceeding further in the proceedings initiated under the Public Premises Act. However, under the interim order of this Tribunal the respondents were restrained from evicting the applicant from the accommodation in question

even if proceedings had commenced. I think it will be expedient in the interest of justice ^{but} if the same arrangement should continue till the disposal of the applicant's application for giving a suitable employment to his son, A.K.Rahi, on compassionate ground. The Director General, Ordnance Factories shall endeavour to dispose of the application made by the applicant for giving ~~up~~ a suitable employment to his son, A.K.Rahi, on compassionate ground as expeditiously as possible. He shall do so on merits and in accordance with law and in the light of observations made above. Till the application is disposed of and the order communicated to the applicant and till the expiry of the period of two weeks from the date of the receipt of the communication by the applicant, he (applicant) shall not be evicted from the accommodation in question. In case, the officer decides to accept the applicant's request and gives an appointment on compassionate ground to A.K.Rahi, the question of eviction of the applicant from the accommodation in question shall not arise and steps shall be taken by the respondents to allot the same to A.K.Rahi. The applicant shall, however, continue to pay rent/damages of the accommodation in question as he has been paying ^{hitherto - fore} ~~to that effect before~~.

8. With these directions this application is disposed of finally but without any order as to costs.

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN

mrj.