

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 235/92

~~Transfer Application No.~~

Date of decision 3.8.93.

Shri S. Narayan Petitioner

Shri M.A. Mahalle Advocate for the Petitioner

Versus

Commanding Officer, Air Force Respondent
Station, Thane & Urs.

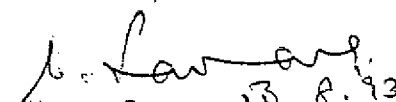
Shri P.M. Pradhan Advocate for the Respondent(s)

Coram :

The Hon'ble ~~xxx~~ Ms. Usha Savara, Member (A)

The Hon'ble Shri

1. Whether the Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No.
4. Whether it needs to be circulated to other Benches of the Tribunal ? No


(Ms. Usha Savara) 3.8.93.
Member (A)

(16)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

DA.NO. 235/92

Shri S.Narayan

... Applicant

V/S.

Commanding Officer,
Air Force Station, Thane ... Respondents
And Others.

CORAM: Hon'ble Member (A) Ms. Usha Savara

Appearance

Shri M.A.Mahalle
Advocate
for the Applicant

Shri V.M.Bendre
for Shri P.M.Pradhan
Advocate
for the Respondents

JUDGEMENT

Dated: 3.8.'93.

(PER: Ms.Usha Savara, Member (A))

This O.A. has been filed with the prayer that the impugned order cancelling the allotment of quarter SMQE-84, and allotting SMQ F-21 be quashed and the applicant be allowed to continue in the quarter which he has been occupying since 1983, by order dated 20.4.1983.

2. On 6.3.1983, the applicant had applied for allotment of Type 'E' SMQ as he was drawing pay of Rs.260/- p.m. At that time, he was occupying Type 'F' SMQ. He represented that he was entitled to Type-II(E) SMQ as laid down vide Army Hqs. letter No. 83341/Q3W (Policy) dated 14.12.1978. In response, he was allotted Qr.No. E/84 by order dated 20.4.1983. In December, 1991 he was informed that he was entitled to Type-I SMQ 'F' Type quarter as he was Group 'D' civilian, and on 3rd February, 1992, he was asked to vacate the quarter that he was occupying and shift into quarter No. F/21. The applicant filed the O.A. thereafter as his representations were not considered by the respondents.

3. A reply has been filed by the respondents. It is pleaded that the applicant is not entitled to the quarter, which he is occupying at present. The applicant is a class IV civilian, and the quarter that he is occupying is meant for Class III civilians. It is also submitted by Shri Pradhan, learned counsel for the respondents, that Air Headquarters had issued a clarification in 1975 that in case of any exigency of service, the Defence civilians could be shifted to alternate accommodation appropriate to their status. In case accommodation is allotted on specific conditions temporarily, then Defence civilians must vacate on short notice, and cannot even claim a right to be provided with alternative accommodation. It was on the strength of this clarification that the applicant was asked to shift from Quarter 'E' Type to 'F' Type, to which he is entitled. This was done because of exigency of service. Lastly, it is also submitted that the applicant is not occupying the quarter, as he is staying at Deonar with his family. Ex. 'X' is ^{an} application dated 22.1.1990 from the applicant to issue him a C.G.H.S. card for getting medical aid for himself and his family. The address of the applicant is given as Deonar. In the rejoinder, the applicant states that the address of Deonar was given only with a view to get the medical facilities, as they are not available to civilians. It is the applicant's case that he has never stated that he was staying at Deonar. In any case, this was not the reason for shifting him from Type 'E' to Type 'F'.

4. I have heard the learned counsel at length. The order dated 20.4.1983 is neither for temporary allotment, nor conditional allotment. The allotment was made as per Army Hqs/letter No. 83341/(Policy) dated 14.12.1978. No evidence has been adduced before me to substantiate the respondents claim that the allotment was either conditional or temporary.

5. In the circumstances, the application succeeds. The impugned orders are quashed as being arbitrary. The interim orders passed on 24.2.1992 are made absolute. It is, however, made clear that if the applicant is not residing in the quarter Type 'E', the respondents are at liberty to proceed against him in accordance with law. No order as to costs.

U. Savara
(MS.USHA SAVARA) 3.8.93.
MEMBER (A)

mrj.