

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

XXXXXX Application No. XXXXXX

Transfer Application No: 4/93

DATE OF DECISION: 5.7.1994

Vittal Ramchandra Kaskar
Satish Vittal Kaskar Petitioner

Mr. Prabhakaran
Mr. C.S. Menon Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. V S Masurkar Advocate for the Respondent(s)

PCY
CORAM :

N/97
The Hon'ble Shri N.K. Verma, Member (A)

The Hon'ble Shri

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

N. K. Verma
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PREScot ROAD, BOMBAY-1

TR. A. NO. 4/93

1. Vittal Ramchandra Kaskar)
2. Satish Vittal Kaskar) ..Applicants

V/s.

Union of India & Ors. ..Respondents

Coram: Hon. Shri N.K. Verma, Member(A)

APPEARANCE:

Mr. Prabhakaran for Mr. C.S.Menon
counsel for the applicants

Mr. V.S. Masurkar
Counsel for the respondents

JUDGMENT:
(Per: N.K. Verma, Member(A))

DATED: 5/7/94

This is a transferred application in which the applicant Shri Vittal Ramchandra Kaskar has prayed for a writ of Mandamus to the respondents to allot quarter No. 2/22, Type-B, 1st floor, C.G.S.Quarters, Ghatkopar, Bombay on ad hoc basis in favour of Petitioner No.2 and also quash the impugned the eviction proceedings initiated against the applicant by Respondent no.2 under the Public Premises (Eviction of Unauthorised Occupants) Act 1971. Pending final disposal of the petition the applicant had also requested for an interim injunction restraining the respondents from taking possession or evicting petitioners from the said quarters. In an interim order passed by this Tribunal the applicant was given the interim relief against the eviction by the respondents.

2. The applicant's case is that he is the father of Petitioner No.2 and both were residing in the Government quarter mentioned in this application since March 1970. The applicant had joined the Government

service in the Naval Dockyard Bombay in 1946 and was allotted the said quarter some time in March 1970 and he retired from the Naval Pay Office, Castle Park, Angre, Fort, Bombay on 30.9.1983.

Petitioner no. 2 is the son of the applicant who also works in the Naval Dockyard, Ghatkoper Bombay as an Assistant Store-keeper with effect from 10.10.1983 for which a letter of appointment was issued to him on 30.9.1983. The applicant has brought to our notice that the petitioner no.2 made an application to respondent no.2 on 12.12.1983 for allotment of quarter by his father in his own name on ad hoc basis. This request was forwarded to the respondent no.2 by the office of the petitioner on 3.4.1984 which was rejected by the Respondent no.1 vide his letter dated 3.5.1984. Thereafter, the petitioner no. 2 went on making several representations to the Director of Estates to which no reply was received and the applicant was served with a notice dated 26.6.1984 under Public Premises (Eviction of Un-authorised Occupants) Act, 1971 for proposed eviction from the said quarter. In reply to the show cause notice the applicant submitted to the Director of Estates that the applicant's son, petitioner no.2, was entitled to allotment of a quarter which was in occupation of the applicant by virtue of the fact that he was drawing the basic salary of Rs. 260/- per month and was not in receipt of House Rent Allowance due to the fact that he was sharing the accommodation with his father. The applicant states that the petitioner no.2 was staying in that accommodation since his birth and the allotment of the said quarter under S.R.-17-B-25 of the Allotment of Government Residences (General Pool) 1963

applies in his case. The applicant has also quoted four cases in which son, married daughter or wife of a retired Govt. servant who enters the Government service after the retirement servant was allotted quarter under these rules on ad hoc basis. In view of this, the order rejecting the petitioner no.2's request for ad hoc allotment of the said quarter is considered as bad and illegal and hence the prayer for quashing of the order.

3. In the written reply the respondents have referred to the order of the Director Estates dated 1.5.1981 under which the concession of adhoc allotment of general pool accommodation is admissible to eligible dependents/relations, only if the said relation/eligible dependent is a Government servant eligible for general pool accommodation and had been continuously residing with the retiring Government servant for preceding at least three immediately preceding the date of his retirement. Under these conditions there are two essential requirements - firstly the said relation should be a Government servant eligible for general pool accommodation and secondly that Government servant should be residing continuously for three years immediately preceding the date of retirement of the allottee. On the date of retirement of the applicant his son, petitioner no.2, was not at all in service. His appointment in the Government service was given only on 10.10.1983 whereas the applicant had retired on 30.9.1983. It was because of these conditions that the request of the petitioner no.2 was rejected. The respondents have also refuted the contention of the applicant that the Director of Estates had allotted any quarter on ad hoc basis. In respect of four cases cited in the application, the respondents have strongly

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denied that there is any Government instruction under which the application of the petitioner no. 2 can be considered favourably and hence the order of eviction passed by Director of Estates is valid and requires no interference.

4. This case was heard on 6.6.1994 after having been received on transfer from the High Court of Judicature at Bombay where a writ petition was filed by the applicant on 13.07.1984 which came to be renumbered as Transferred Application No. 4/1993. The applicant had obtained stay in the writ petition filed before the High Court and thereafter he had not proceeded further in the matter. Even the notice sent by this Tribunal dated 1.11.1993 was received with the remarks "left". Since the whereabouts of the applicant could not be ascertained and the matter of allotment of quarter related to 1984 this Tribunal was not inclined to proceed with the petition any further and it was accordingly disposed of. However, on a request of the applicant vide letter dated 21.1.1994 the matter was restored and the Interim Relief granted to the petitioner by the High Court was allowed to continue. A Division Bench on 18.2.94 again decided that the matter be heard before a Single Bench finally on 18.3.94. The matter was finally heard on 6.6.1994 when Mr. Prabhakaran and Mr. C.S. Menon appeared for the applicants and Shri V.S. Masurkar for the respondents.

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5. The matter was given a very careful hearing. Apart from the fact that the applicants had been in continuous occupation of the Government quarter even after the cancellation of the allotment in favour of the applicant for nearly 10 years there is no other

extenuating
N.L. ~~extraaneous~~ circumstance to coverup the period of
unauthorised occupation. The allotment of quarter
to the relative/wife/daughter of a Government officer
who retires from Government service or who dies while
in service is a concession given to such persons.

In case of Government employee who retires after the age of
superannuation or seeks voluntary retirement, the
concessions have been made applicable to ~~those~~ relatives/
wife etc., who are in Government service and who have
shared the accommodation for three continuous years
preceding the retirement of such a retiring official.

A little more relaxed conditions are prescribed for
dependents/wards/widow of a Government employee who
dies in harness and whose relatives etc., obtain an
appointment in relaxation to normal recruitment rules
on compassionate grounds. However, in the instant case
no such compassionate grounds have been advanced by
the applicant except the fact that the son of the
applicant was able to join the Government of India
service within 10 days of the retirement of the
applicant no.1. Even if the petitioner no.2 had
joined the service before the actual retirement of
the applicant he would ^{not} have been covered by the rules
prescribed by the Director of Estates (in 1981 under
which the mandatory sharing for three preceding
years is prescribed. The Director of Estates would

N.L. ^{been} ~~been~~ perhaps more in his discretion ^{to} give a favourable
opinion had the petitioner no.2 been appointed to a
Government job before the actual retirement of the
applicant by dispensing with the mandatory provisions
of three years conditions as sought by the applicant.
However, in this case the petitioner no. 2 is totally
out of zone of consideration as the rules do not

envise any out of turn allotment to persons who joined Government service after retirement of the allottee.

6. The applicant and the petitioner no.2 have already enjoyed the benefits of the Government accommodation for nearly ten years and they do not have any legal right to an out of turn allotment. Therefore, the application fails and is dismissed accordingly. The interim stay granted against eviction is also vacated forthwith. The Director of Estates will be at liberty to take whatever steps, within the framework of the rules and law to take possession of the quarter under dispute and also realise the rents for the unauthorised period of occupation, as per the prevailing rules on the subject. Though the respondents have in ~~the~~ written reply requested for award of costs in this case, since the same was not pressed by the learned counsel for the respondents, there would be no order as to costs. The Application is accordingly dismissed with no order as to costs.

N. K. Verma
(N. K. VERMA)
MEMBER(A)