

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 664/95

Date of Decision : 9th November 2000

P.V.Chako Applicant.

Shri D.V.Gangal Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents.

Shri V.S.Masurkar Advocate for the
Respondents.

CORAM :

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

The Hon'ble Smt. Shanta Shastri, Member (A)

- (i) To be referred to the Reporter or not ? yes
- (ii) Whether it needs to be circulated to other No
Benches of the Tribunal ?
- (iii) Library

yes
S.L.Jain -
(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.664/95

Dated this the 9th day of November 2000.

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

Hon'ble Smt.Shanta Shastri, Member (A)

Chako Vergese Plammotil,
Ticket No. 55959 Desi.H.S.
Grade I C.No.71 Mast Naval
Dock Yard, Bombay - 400 023.

... Applicant

By Advocate Shri D.V.Gangal

V/S.

1. The Union of India through
The Flag Officer Commanding
in Chief, Western Naval
Command, Fort, Bombay.

2. The Admiral Superintendent,
Naval Dock Yard, Bombay.

3. The Estate Officer,
Naval Dock Yard, Bombay.

... Respondents

By Advocate Shri V.S.Masurkar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the
Administrative Tribunals Act, 1985 seeking the following reliefs:-

(a) That this Honourable Tribunal be graciously
pleased to issue a Writ of Certiorary and quash
and set aside the impugned orders Annexure A-1
and A-2.

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(b) To hold and declare that impugned orders dated 29.1.94 and 6.4.95 A-1 and A-2.

(c) To hold and declare that the quarter in occupation be regularised in favour of the applicant and notice U/S 4 of the P.P.Act is illegal.

(d) That the applicant be granted the benefit of counting his service from 26.9.1980 by granting the same in the light of Full Bench judgement.

(e) That it may be declared that casual service followed by regular service counts for all purposes including allotment of quarter in terms of ratio of the above Full Bench judgement.

(f) Grant any other and further relief with costs as this Hon'ble Court deems fit and proper and for which act of kindness the applicant as in duty bound shall ever pray.

By way of an amendment, the applicant has added the following reliefs as subsequent event, as the OA. was filed on 27.6.1995 :-

(g) That this Hon'ble Tribunal may be pleased to direct the respondents to regularise the quarter in occupation of the applicant on the same terms on which the quarters 23 persons have been regularised by order dated 5.2.1996.

(o) The applicant is entitled to regularisation of his quarters on the same terms on which the quarters of 23 persons were regularised vide the order dated 5.2.1996.

2. The applicant was appointed on casual basis as Skilled Turner and confirmed with two breaks on 26.9.1980 to 11.8.1983. He was appointed on regular basis as Skilled Turner on 12.8.1983. He was promoted as High Skilled Turner Grade I on 31.12.1990. He submitted application for allotment of quarter on 1.6.1988 and the quarter was allotted on 13.6.1988. The said allotment is cancelled on 29.1.1994 and a notice under Section 4 of P.P.Act is issued on 6.4.1995. The applicant has filed the present OA. on 27.6.1995 i.e. to say after issue of notice under Section 4 of P.P.Act.

P. Gupta

3. The applicant claims that he has no house at Bombay. His parents were aged and sick. As his parents were sick and needed treatment from the Tata Hospital for cancer, he applied for allotment of the quarter, being aware of the modus operandi that the quarter is allotted on regular basis but the employee is kept harassing as the allotment is on medical grounds being out of turn allotment. ^{if} His correct date of appointment is ~~to be~~ ^{is imminent} considered when the date for regular grant of quarter. ⁴ The respondents have continuously extended various out of turn allotments and permitted the allottees to retain the quarters. Even sharing permission is allowed to family of Central Government employee. The respondents are sympathetic to the scarcity of accommodation. About 300 quarters have been allotted on out of turn basis. Although out of turn allotment is granted for three months, the approach and attitude to allot the quarter on regular basis as per normal turn is adopted. The cancellation notices have been issued in the past have not been acted upon.

4. By way of amendment, the applicant claims that the respondents have passed order dated 5.2.1996 by which they have regularised the quarters of around 23 persons whose allotment was cancelled earlier vide Annexure-'A-18'. The applicant claims to be similarly situated to the said 23 persons and therefore the respondents ought to have regularised the quarter. The respondents have deliberately not included the name of the applicant in the order dated 5.2.1996 knowing very well that the applicant is similarly situated to the persons whose quarters are regularised, to whom the quarters on medical grounds were allotted and subsequently cancelled. The order passed by

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respondents is discriminatory in as much as the respondents are giving differential treatment to similarly situated persons. Thus, the act of the respondents is unconstitutional one. The applicant is senior in respect of allotment of quarter than the aforesaid 23 persons.

5. The respondents have resisted the claim of the applicant. The amendment regarding regularisation of the quarter vide order dated 5.2.1996 and the discriminatory treatment by the respondents is also replied by the respondents on the allegations that on humanitarian grounds after application of mind the competent authority has regularised the allotments.

6. Before we proceed to examine the case on merits, it is necessary to state that vide Annexure-'A-1' & 'A-2' notice for handing over possession and under Section 4 of P.P.Act was issued by Admiral Superintendent & the Rear Admiral, Admiral Superintendent and Estate Officer on 29.1.1994 & 6.4.1995 respectively. About the said notice under Section 4 of the P.P.Act, this Tribunal makes it clear that in view of an order passed by this Tribunal in OA.NO.140/99 on 13.6.2000 in case of P.K.Rai vs. Union of India & Ors., it has been held that the Tribunal has no jurisdiction to go into the issue of unauthorised occupation and adjudicate upon the same. Hence, the reliefs prayed in the original application as mentioned above, we decline to examine the same.

P.K.Rai -

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7. We proceed to examine the matter only in respect of discrimination in regularising the quarter in respect of the applicant.

8. As the cases of the said 23 persons in whose favour the regularisation is ordered have not been brought on record, we are unable to pass any order considering the said cases. The only order which can be passed is that the respondents are directed to consider the case of the applicant on the same principle adopted by them in regularising the quarter to the said 23 persons vide order dated 5.2.1996 within a period of one month from the date of receipt of the copy of the order. With this observation the OA. is disposed of. No order as to costs.

Shanta Shastri

(SMT. SHANTA SHASTRY)

MEMBER (A)

S.L. Jain

(S.L. JAIN)

MEMBER (J)

mrj.