

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CIRCUIT SITTING AT PANAJI, GOA

O.A. No. 505/97

DATED: THIS 8TH DAY OF OCTOBER, 1998

CORAM: Hon. Shri Justice K.M. Agarwal, Chairman
Hon. Shri N. Sahu, Member (A)

C. Kolandaivel
R/o. NOFRA
New Power House
Airport Road
Dabolim, Goa
(By Adv. Mr. M C Fernandes)

..Applicant

V/s.

1. Union of India through
the Secretary
Ministry of Defence,
M.E.S. New Delhi
2. A.G.E. E&M II(N.W.)
Mangor Hill
Vasco-da-Gama, Goa
3. Garrison Engineer
Maintenance
Mangor Hill
Vasco-da-Gama, Goa
4. C.W.E. Navy
Mangor Hill
Vasco-da-Gama, Goa

(By Adv. Mr.)

..Respondents

OPEN COURT ORDER

(Per: K.M. Agarwal, Chairman)

1. Heard the counsel. This is an application under section 19 of the Administrative Tribunals Act, 1985 for directing the respondents to deliver possession of Type I T/181-2 quarter Hansa(Goa) to the applicant as per allotment order dated 4.3.93 (Annexure A-1).
2. It is not in dispute that the applicant is a Valve-man working under the 3rd respondent. It is also not in dispute that he is entitled to Type I government quarters. Accordingly Quarters No.T/181-2 Type I

Km Government accommodation was allotted to him by the

order dated 4.3.93. From column 5 of the allotment order it would appear that the quarter was earlier in occupation of one Shaik Imam, Electrician, and on his vacation the quarter was allotted to the applicant. However, it appears that Shaik Imam had not in fact vacated the quarter and therefore it could not be made available to the applicant for accommodation. Under these circumstances the present O.A. was filed for the aforesaid reasons.

3. Learned counsel for the applicant submitted that Shaik Imam who is a superior official is entitled to Type I¹ quarters. He was also allotted Type II quarters, but instead of vacating the Type-I quarters and occupying the newly allotted Type II quarters, Shaik Imam is still in occupation of the Type-I quarters bearing No.T/181-2. Accordingly a prayer is made for directing the respondents to get the quarter vacated from Shaik Imam and then deliver possession thereof to the applicant as per the allotment order dated 4.3.93.

4. Learned senior counsel appearing for the official respondents submitted that presuming that the accommodation was vacated by Shaik Imam, Electrician, the allotment of Type I quarter bearing No.T/181-2 was allotted to the applicant by the allotment order dated 4.3.93. Subsequently when it was found that the quarter was not available for occupation by the applicant, another Type-I accommodation was provided to the applicant, but he refused to take possession of the fresh allotment. He further submitted that the respondents are still willing and ready to allot any other vacant type I quarter to the applicant.

5. After hearing the learned counsel for the parties and perusing the record, we find that Shaik Imam has not been made a party to this application though he still continues to be in occupation of the Type-I quarter bearing No.T/181-2. The respondents are not supposed to take the law into their own hands. It may take a lot of time in getting accommodation vacated from Shaik Imam. However, there is no law prohibiting occupation of a lower type accommodation by an officer entitled to a higher type of accommodation. Under these circumstances also it appears very difficult to direct the respondents to get the accommodation vacated by Shaik Imam, Electrician. In these circumstances we can only direct the respondent to allot any other vacant Type-I accommodation to the applicant.

6. During the course of arguments, we enquired from the learned counsel for the applicant as to why the alternative Type-I accommodation allotted to the applicant was not occupied by him. We were told that the accommodation allotted was not fit for habitation and therefore it was not occupied. However, we are not satisfied with the explanation furnished for and on behalf of the applicant for not occupying the alternative accommodation provided to him, in view of the fact that such accommodation ought to have been occupied by some official of his rank before it was actually vacated.

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7. The learned counsel for the applicant then submitted that the applicant may be allotted some alternative accommodation in Nofra area. The learned counsel for the respondents submitted that presently there is no vacant accommodation available in Nofra area, but the respondents are willing and ready to allot any such accommodation in Nofra area as and when it is available.

8. In the aforesaid facts and circumstances we are of the view that this petition can be disposed of by directing the Respondents to allot Type-I accommodation to the applicant in any area, preferably in Nofra area if possible, within a period of two months from the date of receipt of a copy of this order. If it is not possible to allot any Type-I accommodation to the applicant in Nofra area, similar accommodation in any other region may be allotted to the applicant within the period specified.

9. This O.A. is accordingly disposed. No costs.

N. Sahu
(N. Sahu)
Member (A)

K. M. Agarwal
(K. M. Agarwal)
Chairman