

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 998/97

Date of Decision: 2.7.1998

Smt. Nalini P. Eangle

.. Applicant

Shri M.S. Ramamurthy.

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri V.S. Masurkar

.. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.

The Hon'ble

(1) To be referred to the Reporter or not ? *✓*

(2) Whether it needs to be circulated to *✓*
other Benches of the Tribunal ? *✓*

R.G. Vaidyanatha

(R.G. VAIKYANATHA)
VICE-CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 998/97.

Thursday, this the 2nd day of July, 1998.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman.

Smt.Nalini P.Bangle
Widow of P.L.Bangle,
Quarter No.P/43/08/SPDC
Colony,
Mankhurd,
Mumbai - 400 088.

... Applicant.

(By Advocate Shri M.S.Ramamurthy)

V/s.

1. Union of India
through the Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 001.
2. Flag Officer Commanding-in-
Chief, Headquarters Western
Naval Command, Shahid Bhagatsingh
Marg,
Mumbai - 400 001.
3. The Material Superintendent,
Material Organisation,
Ghatkopar (W)(P.O.),
Mumbai - 400 086.
4. The Commodore,
Bureau of Sailors,
Cheetah Camp, Mankhurd,
Mumbai - 400 088. ... Respondents.

(By Advocate Shri V.S.Masurkar)

O R D E R

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the Administrative Tribunals Act. The respondents have filed their reply. The application is being disposed of at the admission stage since the point involved is a short one. I have heard the learned counsel appearing on both sides.

2. The applicant is the widow of one Mr.P.L.Bangle who was working as a Store Keeper in the Material Organisation of the Western Naval Command. He died on 21.4.1996 leaving behind the applicant and three minor children. The applicant has made an application to

the respondents for compassionate appointment as per the government scheme. The respondents have not yet disposed of that application. The applicant is continuing in the quarters in which her husband was staying. Initially, she was given one year's extension to stay in the quarters from the date of death of her husband, she is still continuing there. Now the respondents are asking the applicant to vacate the quarters. With all these allegations she has approached this Tribunal praying for a direction to the respondents to provide suitable appointment to the applicant in accordance with the employment assistance scheme, to direct the respondents to regularise the present quarters or allot any other suitable residential quarters to the applicant and the respondents should be restrained from evicting the applicant from the present quarters where she is residing.

3. The respondents have filed their reply opposing the application. On merits it is stated that the applicant's application was received in the office of the Headquarters on 24.4.1997. That all applications under the employment assistance scheme are being considered as per their Registration in the office of the Headquarters and according to the scheme. That as on the date of the present O.A. there were 52 such cases before registration of the applicant's application. Now as on to day, there are 34 such cases. It is stated that the applicant's application for compassionate appointment will be considered as per the scheme as and when her turn comes.

As far as the continuation of the applicant in the quarters, it is strongly objected to by the respondents. It is stated that the applicant has no right to continue in the quarters after the grace

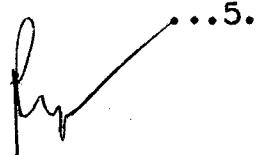
period of one year from the date of death of applicant's husband.

4. The respondents have clearly stated that the applicant's case will be considered on merits for compassionate appointment as soon as her turn comes. As per the latest figures made available 30 applications prior to the registration of the applicant's application in the office of the Naval Headquarters at Mumbai ^{are} ~~is~~ pending.

The applicant's counsel contended that the applicant's application was given on 1.8.1996 and the seniority of the application should be with reference to the date of original application given by the various candidates in the Unit Office. But the learned counsel for the respondents submitted that as per the practise followed in the department the applications will be processed in different units and then submitted to the office of the Headquarters and therefore applications are entered in a Register as per the date of receipt in the office of the Naval Headquarters at Mumbai. But the applicant's counsel questions the correctness of this practise in the Naval Headquarters at Mumbai.

5. As rightly argued on behalf of the respondents, the compassionate appointment is neither a legal right nor a statutory right. It is a concession given by the government on humanitarian consideration to give ^{some assistance} the family when a bread-winner dies. Therefore, it is not a case of the applicant asserting a legal right to call on the respondents to follow a particular practise. It is also stated that there are about

15 to 20 Units in the Mumbai City. The applications for employment assistance will be given to the head of the Unit. He will have to process the application as per the scheme for employment assistance, then the head of the Unit forwards the application to the Headquarters where the final decision is taken. It may be possible that some application may be defective and some may be rectified subsequently etc. Since there are number of units in Mumbai it is not possible to the Headquarters to follow the date of application and therefore they have adopted a practise of registering the application in Headquarters and then considering the application one by one as per their date of registration in the Headquarters. It cannot be said that the practise followed by the respondents is illegal or otherwise bad in law. In fact, there is no such law as to how the application should be registered. Therefore, it is not a case where the respondents are dis-obeying any mandate of law so that the Tribunal can interfere with. This Tribunal cannot lay down any rule of law for the respondents to follow ⁱⁿ these types of cases. It may be that the argument of the learned counsel for the applicant that the date of application given in the unit should normally be preferred is a resonable argument, but the respondents have also stated as to why they are following the existing practise. Therefore it is for the Competent Authority to ^{decide} say as to which practise he has to follow in registering the applications in the absence of any direction in the Memorandum of Employment Assistance

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Scheme. I only leave the matter to the Competent Authority to decide as to how he should consider the seniority of the application, whether on the basis of the date of the application given in the unit or the receipt of the date of application in the office of the Headquarters. This Tribunal cannot step in and give a direction, but leave the matter to the competent authority to take a decision whatever he deems fit.

6. As per the present practise in the respondents office and as on to day there are 30 applications prior to the registration of the applicant's application. The learned counsel for the respondents made a statement at the bar that the applicant's case will be considered and appropriate decision would be taken as soon as her seniority comes. Since the respondents have ~~not~~ neither rejected her application, the only direction that can be given to the respondents is to consider the application of the applicant for compassionate appointment and take a decision at the earliest subject to her turn.

7. As far as the question of continuation in the quarters is concerned, there is no legal right for the applicant to continue in the quarters indefinitely under the rules. She had a right to continue in the quarters for a period of one year from the date of death of her husband. That period expired one year back i.e. on 25.4.1997 and therefore, the applicant has no legal right to continue in the quarters. Even according to the rules produced by the respondents the question of regularisation of the quarters even if the applicant is given compassionate appointment is

 ...6.

when the appointment is given within four to twelve months from the date of death of the employee. Therefore, even if we apply that rule and even to day if the applicant gets a job, she would not be entitled for regularisation of the quarters as per the existing rules. Suppose there might be a delay of one or two years in applicant getting a compassionate appointment or she may not even get it on merits. Therefore, this Tribunal cannot allow the applicant to continue in the quarters indefinitely for which she has no right. Therefore, the prayer of the applicant for continuation in the quarters cannot be granted in the circumstances of the case.

8. In the result, the O.A. is disposed of at the admission stage with the following directions.

- (1) The respondents may consider the case of the applicant for employment assistance under the Employment Assistance Scheme as and when her turn comes according to the scheme.
- (2) The applicant's prayer for continuation in the Quarters is rejected. The ad-interim order is vacated. However, on humanitarian grounds, the respondents are directed to allow the applicant to continue for one more month from to day.
- (3) The question whether the applicant should pay penal rent or not is left open.
- (4) M.P. 330/98 is disposed of since relevant documents are produced by the counsel for the respondents for perusal by the Tribunal.
- (5) In the circumstances of the case there will be no order as to costs.

R.G.Vaidyanatha

(R.G.VAIDYANATHA)
VICE-CHAIRMAN