

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 512 / 98

Date of Decision: 28.8.2002

M. Muwali 2 m-      Applicant.

Shri Ramash Ramamurthy Advocate for  
Applicant.

Versus

Union of India 2 m-      Respondent(s)

Shri V.S. Masurkar      Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. B.N. Bahadur - M (A)

Hon'ble Shri. S.L. Jain - M (S)

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

(2) Whether it needs to be circulated to  
other Benches of the Tribunal? *No*

*Abd*  
(B.N. Bahadur)  
M (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Dated this the 28th day of August, 2002

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)  
Hon'ble Mr.S.L.Jain - Member (J)

O.A. 512 of 1998

1. Shri M.Murali,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate  
at Naval Station Karanja, Uran,  
District Raigad,  
R/o Quarter No.88/5, NAD,Karanja,  
District, Raigad.
2. Shri Muzaffar Ali,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate  
at Naval Station, Karanja,  
R/o Quarter No.131/1, NAD,  
Karanja, District Raigad.
3. Prakash Chandra Singh,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
at Naval Station Karanja, Uran,  
District Raigad,  
r/o Quarter No.131/4, NAD,  
Karanja, District Raigad.
4. A.G.Hari,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
Naval Station Karanja, Uran,  
District Raigad,  
R/o Quarter No.152/4, NAD,  
Karanja, District Raigad.
5. P.B.Kaladharan,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
Naval Station Karanja,  
Uran, District Raigad.  
R/o Quarter No.535/6, NAD,  
Karanja,District Raigad.
6. P.Arumugam,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
Naval Station, Karanja,Uran,  
District Raigad,  
R/o Quarter No.88/4, NAD,  
Karanja, District Raigad.

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7. Chandrashekhar,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
Naval Station, Karanja, Uran,  
District Raigad.  
R/o No.153/3, Karanja,  
District Raigad.

8. Smt.P.Savitri,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
Naval Station, Karanja, Uran,  
District Raigad  
R/o Quarter No.535/7, NAD,  
Karanja, District Raigad.

9. A.C.Swain,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate,  
Naval Station, Karanja, Uran,  
District Raigad,  
Raigad.  
R/o Quarter No.89/2, NAD,  
Karanja, District Raigad.

10. K.P.Singh,  
Senior Chargeman (Mechanical),  
Naval Armament Inspectorate  
Naval Station Karanja, Uran,  
District Raigad.  
R/o Quarter No.136/4, NAD,  
Karanja, District Raigad.  
(By Advocate Shri Ramesh Ramamurthy)

- Applicant

VERSUS

1. Union of India  
through the Secretary,  
Ministry of Defence,  
Government of India,  
South Block, New Delhi.

2. The Chief of Naval Staff,  
Naval Headquarters,  
New Delhi 110 011.

3. Flag Officer Commanding-in-Chief,  
HQrs. Western Naval Command,  
Sahid Bhagatsingh Marg,  
Mumbai.

4. The Senior Officer,  
Naval Station,  
Karanja, Uran,  
District Raigad 400 704.

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5. The General Manager,  
Naval Armament Depot,  
Karanja, Uran,  
District, Raigad.

6. The Senior Inspector,  
Naval Armament Inspectorate,  
Naval Station, Karanja,  
Uran, District Raigad.  
(By Advocate Shri V.S.Masurkar)

- Respondents

ORAL ORDERBy Hon'ble Mr.B.N.Bahadur, Member (A) -

Ten Applicants have filed this Application jointly being aggrieved by the system of allotment of residential accommodation whereby allotment of accommodation to the Naval Armament Inspectorate Personnel (NAI) is limited by a quota as stipulated in Para 3 of the impugned Order No.9/87 dated 1.3.1987 (Exhibit 'B' page 32). Indeed all Applicants are working in NAI and hence this joint application.

2. The basic facts as gleaned from the records in the OA, and the arguments made before us by learned counsel on both sides, are that the Applicants state that earlier all allotments were made through Establishment Order No.29/82 dated 8.10.1982 but, the present impugned order has now been unilaterally and wrongly imposed. Due to this order, the NAI staff has to wait unduly long time for allotment of Government accommodation at Karanja. Further details of the case are described in the OA, and grounds taken to the effect that the impugned order is bad in law and arbitrary. Although a number of grounds have been taken by the Applicant, the main ground is that the present system of



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allotment of quarters to NAI staff at Karanja is arbitrary and discriminatory. The Learned Counsel for the Applicant took this as the main ground specifically making the point that the rules in respect of allotment of quarters as made under SRO 308 dated 17.10.1978 (Exhibit 'D') are rules made in exercise of powers conferred under Article 309 of the Constitution. Also the point was made that these rules are made by the President and hence any change made by any other authority below the President was illegal, as indeed was the case here.

3. Although a number of subsidiary points were also made by the counsel for the Applicant and attempted to be met by the Respondents Learned Counsel, we will first examine the above point, as it is an important point impinging on the grievances and the relief sought.

4. The Respondents have filed a detailed written statement where it is stated that allotment of quarters is in accordance with the "Directives of Proper Higher Authorities". It is stated that the SRO which is relied upon by the Respondents, does not discriminate between employees having or not having own accommodation.

5. It is pointed out in the sur-rejoinder and in argument by the Learned Counsel for the Respondents that the introduction of



quota system was done after due deliberation by a Board of Officers. Learned Counsel Shri Masurkar stressed this point by taking us over the relevant documents and stated that it was not as if it was an arbitrary decision but someone was taken. It was after considerable thought that the Naval Headquarters had considered and decided the matter carefully. The point is also made in the sur-rejoinder as also stressed by the Learned Counsel for the Respondents that even in New Delhi although the allotment procedure is centrally controlled by the Directorate of Estates, quotas exist for Indian Foreign Service Officers within the General Pool. A point was also taken that there is an earmarking of quarters for other organisations such MES Tunir, Kendriya Vidyalaya, etc.

6. A careful examination of the order titled SRO 308 dated 17.10.1978 referred to above, does bring out the important point that this is indeed in the nature of statutory order made specifically citing the fact that the orders are made in the exercise of powers under Article 309 of the Constitution. It is also important to note that the rules are made, as indeed stated in the Preamble, by the President. Further these are in the nature of detailed rules spreading over some 18 pages and under the circumstances it would be expected in law that an important aspect like quota cannot be left out in the rules.



The fact that this is not contained in the rules is an important legal flaw and there is force in the arguments of Counsel for the Applicant that there is no authority vested with anybody lower than the President to make any changes in the Rules. It is also relevant to note that "quota system" has important repercussions in the time taken for allotment and cannot be stated to be a matter of minor detail either. We are not convinced by arguments made in this regard on behalf of the Respondents that this important legal aspect can be ignored. It may be true that considerable thought has been given in the matter by the Western Naval Command through consideration by a Board of Officers. They may or may not have strength in their view but the important point is that while these authorities have a right to make a recommendation to the Government, the change/s in the rules envisaged in the policy have to come in a proper legal manner. In other words, two ingredients are important. Firstly, that any changes made must be made only by the Government/President, secondly, and that any change envisaged should come through a proper amendment in the SRO. We accept the point that Government has the right to make changes in the rules. Indeed this is a policy decision, as argued by counsel for Respondents, and we have no doubt that policy decisions can be changed but the point is that they can be changed only by an authority that is competent in law to make the changes through incorporation or modification in the rules appropriately.



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7. Accordingly, noting the right of competent authority to make changes in rules of allotment and noting that these have to be made by issue of proper orders by competent authority, we are nevertheless convinced that interference in the matter is justified. The OA is therefore allowed in terms of the following orders.

#### O R D E R

The CINA (B) ADMN Order No.9/87 is hereby quashed and set aside. The order applicable hitherto (PEO No.29/82) will continue to be operative for the purpose of grant of allotment of NAI and other personnel.

There will be no order as to costs.

*S.L.Jain*  
(S.L.Jain)  
Member (J)

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*B.N.Bahadur*  
(B.N.Bahadur)  
Member (A)