

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A.No.561/1995

Date of order: 8.8.1997.

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M.A.No.18/1996

Mukesh Chaturvedi S/o Shri Amar Singh Chaturvedi, resident of Quarter No.C-1, Akashwani Colony, Sawai Madhopur. Presently working as Announcer Grade-IV, All India Radio, Sawai Madhopur.

: Applicant

Versus

1. Union of India through Secretary, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi.
2. Director General, All India Radio, Akashwani Bhawan, Sansad Marg, New Delhi.
3. Head of Station (Station Engineer), All India Radio, Sawai Madhopur.

: Respondents

Mr. P.P.Mathur, counsel for the applicant
Mr. M. Rafiq, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRAFASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAFASH, MEMBER (JUDICIAL))

The applicant Mukesh Chaturvedi has filed this application under Section 19 of the Administrative Tribunals Act, 1985, to seek a direction against the respondents not to compel him to vacate 'C' type quarter which was allotted to him vide order dated 17.6.1994 (Annex.A/3) and in the alternative to allot him 'P' type quarter before insisting upon his vacating 'C' type quarter allotted to him earlier. He has further prayed that the respondents be also directed to allot him a 'C' type quarter permanently and not to insist for vacating the presently occupied 'C' type quarter, till he becomes eligible for allotment of 'C' type quarter in the month of August, 1996.

2. The respondents have opposed this application by filing a written reply to which the applicant has filed an additional affidavit and thereafter the respondents have filed additional reply to this affidavit.

3. Facts relevant for disposal of this application in brief are that the applicant was posted at Sawai Madhopur on 13.8.1993 on the post of Announcer Gr.IV in the All India Radio. There being no 'B' type accommodation available at Sawai Madhopur, the applicant was allotted a 'C' type quarter vide order dated 17.6.1994 (Annex.A/3) and the accommodation being of a higher category the applicant was required to pay the higher rate of rent/licence fee for his occupation on the conditions specified in Annexure A/3. He made a representation to the Director General, All India Radio that since one Shri Srikant Kelkar, Senior Technician entitled to get the accommodation in 'C' type, but was living in 'B' type category, he be allotted 'B' type quarter. However, in consequence of the order dated 30.6.1995/3.7.1995 (Annex.A/4) of the Director General, All India Radio, New Delhi, the respondent No.3 gave a ten days notice to vacate the 'C' type quarter allotted to him vide Annexure A/3. Aggrieved and finding that the respondent No.3 has issued the order dated 13.11.1995 indicating therein that the applicant shall not be treated as Shift Duty Staff, the applicant has approached the Tribunal to claim the aforesaid reliefs.

4. The stand of the respondent has been that there has been no irregularity or illegallity in issuing the impugned order as at Annexure A/1 dated 23.8.1995 . . . The order of allotment of Type 'C' quarter to the applicant dated 17.6.1994 (Annex.A/3) was issued on certain specified conditions and as such he is bound to vacate the allotted quarter of a higher category which is a 'C' type quarter which was allotted to him as there was no eligible person at that particular time and on the basis of the fact that it has to be allotted to other eligible officer.

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5. I have heard the learned counsel for the applicant as also for the respondents and have also perused the documents filed by both the parties alongwith the additional affidavits and replies thereto.

6. Although earlier stand of the respondents has been that the Announcers in the All India Radio would not be covered under the category of Shift Duty Staff, but ultimately vide order dated 7.1.1997 annexed with the Additional Affidavit filed by the applicant on 7.2.1997, it is made out that in consequence of the decision of the Central Administrative Tribunal, Cuttak Bench in OA No.282/96 filed by one Shri Subhash Chandra Nayak and others against the Union of India, the Announcers in the All India Radio have been declared in Shift Duty Staff w.e.f. 26.4.1996 in pursuance of the Ministry of Information and Broadcasting's Memorandum dated 26.12.1996. Thus, there is no dispute that after the issuance of the order dated 7.1.1997, the applicant has also come within the category of Shift Duty Staff.

7. During the arguments, the learned counsel for the parties have taken through the All India Radio (Allotment of Residential Quarters) Rules, 1983 as at Annexure R/1 to the reply of the respondents and also the second schedule attached to it and enclosed as at Annexure R/2. With their reply to the additional affidavit, the respondents have also filed three documents, out of which Annexure RA/3 indicates the Priority List prepared in the respondents departmentat Sawai Madhopur. In this list name of one Shri Sanjay Kapoor, Engineering Assistant has been indicated, drawing a basic salary of Rs.

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2525/- and his priority date has been indicated as 4.3.1988 and that of the applicant Mukesh Chaturvedi, the Announcer his basic salary has been indicated as 1500/- and date of priority has been shown as 12.8.1993. On the basis of this priority list submitted by the respondents, it is vehemently argued by the learned counsel for the respondents that since an official of the higher priority is available and is waiting for allotment of a 'C' type quarter, the applicant cannot insist to retain 'C' type quarter which was allotted to him in view of non-availability of an eligible officer when he was allotted 'C' type quarter vide Annexure A/3 dated 17.6.1994. A perusal of the allotment order dated 17.6.1994 (Annexure A/3) indicates that the applicant was specifically notified to abide by the following conditions:-

- (i) He will have to vacate the allotted quarter on 10 days notice if at any time any officer entitled for the said class applies.
- (ii) He will have to pay three times licence fee i.e. Rs. 330=00 (Rupees Three Hundred Thirty Only) or standard licence fee (being worked out by Civil Construction Wing, All India Radio, Jaipur) which ever is higher.

It is thus abundantly clear that he cannot as of right insist to stay in category 'C' type of quarter when another officer higher in priority is waiting for allotment of a 'C' type quarter.

8. Another thing which has been pointed out during the arguments by the parties is that the applicant has become entitled to a 'C' type residential quarter in the month of August, 1996, but he being lower in priority prepared by the respondents department cannot insist to retain the disputed premises /quarter allotted to him vide Annexure A/3 dated 17.6.1994.

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9. In view of the changed situation, the learned counsel for the applicant has stated at bar that since there is a 'B' type quarter lying vacant after vacation by one Shri Srikant Kelkar since the year 1995, the applicant is prepared to occupy the 'B' type quarter till according to his priority now maintained by the respondents department (Annex. RA/3), he is allotted a 'C' type quarter in future. The learned counsel for the respondents has also no objection if such a direction is given. However, it is maintained by the learned counsel for the respondents that the applicant had to pay the enhanced rent till he vacates the 'C' type quarter allotted to him vide Annexure A/3 dated 17.6.1994.

10. I have given anxious thought to the controversy raised in this OA and in my view the ends of justice would meet if a suitable direction is given to the respondents to allot to the applicant 'B' type residential accommodation lying vacant after its vacation by Shri Srikant Kelkar in the year 1995 and further giving a reasonable direction about the rent to be realised from the applicant from the date of his entitlement to a 'C' type residential quarter in the month of August, 1996 till the date of vacation of the disputed premises. The applicant is presently residing in the 'C' type accommodation allotted to him vide Annexure A/3 and by virtue of the interim directions given vide order dated 7.12.1995 he is still in occupation of the same house.

11. Consequently, while allowing the OA partly, the respondents are directed to allot to the applicant a 'B' type accommodation lying vacant after its vacation by Shri Srikant Kelkar within a period of one month from the date of receipt of

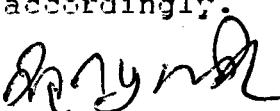
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a copy of this order. The respondents are further directed not to charge from the applicant the enhanced rate of rent/licence fee in respect of the accommodation allotted to him vide Annexure A/3 dated 17.6.1994 between the dates of the applicant becoming entitled to a category of 'C' type residential accommodation till its actual and physical vacation and to charge the normal rate of rent from the applicant for this period. If the applicant fails to vacate and handover the vacant possession to the respondents after allotment of a 'B' type quarter to him, the respondents would be free to take appropriate action against the applicant. The order as at Annexure A/1 dated 23.8.1995 accordingly stands merged with the above directions. The interim direction issued on 7.12.1995 is vacated.

12. The O.A. is disposed of accordingly. No order as to costs.

13. M.A. No.18/96 also stands disposed of accordingly.


(RATAN FRAKASH)

MEMBER (JUDICIAL)