

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 347 of 2004
Original Application No. 600 of 2004
Original Application No. 612 of 2004

Guwali, this the 7th day of December, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Original Application No. 347 of 2004 :

Aslam Aziz, Black Smith, S/o.
Shri Azizuddin, aged about 52 years,
R/o. Qr. No. P-6/1, 3, EME Centre,
Bairagarh, Bhopal,

and 19 others. ... Applicants

(By Advocate - Shri S. Paul)

V e r s u s

Union of India, through its
Secretary, Ministry of Defence,
New Delhi,

and 5 others. ... Respondents

(By Advocate - Shri S.P. Singh)

2. Original Application No. 600 of 2004 :

P. Are vindakshan, Late P. Pappu,
aged about 47 years, UDC, R/o. 151/1,
Family Quarter, 3 EME Centre, Bairagarh,
Bhopal. ... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

Union of India, through its
Secretary, Ministry of Defence,
New Delhi.

and 2 others. ... Respondents

(By Advocate - Shri P. Shankaran)

3. Original Application No. 612 of 2004 :

Smt. Saraswati Kandari, W/o. late
Havildar J.S. Kandari, aged about 39
years, R/o. P-27/1, Sultania Infantry
Lines, Bhopal (MP). ... Applicant

(By Advocate - Shri K.C. Ghildiyal)

V e r s u s

Union of India, through the
Secretary, Ministry of Defence,
Govt. of India, New Delhi,

and 4 others.

... Respondents

(By Advocate - Shri S.P. Singh)

COMMON (O R D E R)

By Madan Mohan, Judicial Member -

Since the issue involved in all these Original Applications is same and the facts are similar, for the sake of convenience, all these Original Applications are being disposed of by this Common Order.

2. By filing these Original Applications the applicants have claimed the following main reliefs :

"OA No. 347/2004 -

(ii) set aside the letters dated 2nd January, 2004 Annexure A-1, dated 24th November, 2003 Annexure A-2 and the order dated 9.3.2004 Annexure A-3,

(iii) command the respondents to provide all consequential benefits to the applicants as if the aforesaid impugned orders are never passed,

OA No. 600/2004 -

(i) upon holding that the impugned action of the respondents in commanding the applicant to vacate the quarter by order dated 2.1.2004 & 14.1.2004 and 6.4.2004, bad in law, set aside the orders dated 2.1.2004 and 6.4.2004 Annexure A-1 and Annexure A-2 respectively,

(ii) command the respondents to refund the damage rend deducted from the applicant's salary forthwith,

OA No. 612/2004 -

(i) to quash the order dated 4 June, 2004 (Annexure A-13) passed by respondent No. 3,

(ii) to direct the respondents to allow the applicant to retain quarter No. P-27/1, S.I. Lines, Bhopal."

3. The brief facts of the case in OA No. 347/2004 are that the applicants because of their nature of duties are required to be present in the office of the respondents during any time in 24 hours. In MES establishment, the quarters were less than the required number and therefore, it was decided

(Signature)

that 20 quarters of defence pool/station pool be allotted to the key personnel by Station Headquarter. The settlement arrived on 23rd March, 1990. This settlement makes it crystal clear that 20 accommodation were directed to be given as a defence pool/station pool accommodation to 20 key personnel. Accordingly, allotment letters were issued. The damage rent can be imposed only after cancellation of the allotment. The eviction can be done only under the provisions of Public Premises (Eviction of Unauthorised Occupant) Act, 1971./20 Govt. accommodation which were duly allotted as per the settlement/agreement arrived at between the Union and Station Head quarter on 23rd March, 1990. The applicants were shocked when they received identical show cause notice dated 24th November, 2003, whereby it was directed that all the defence pool accommodation occupied by the defence civilians be vacated. It was directed that Govt. accommodation allotted to them be vacated within a week from the date of issue of the show cause notice dated 24th November, 2003. The notices were served on the applicants on 6th December, 2003. Therefore, the question of vacating the quarter within a week from the date of issue of the show cause notice does not arise. It was also not mentioned that the allotment of the applicants Govt. accommodation stood cancelled. The Union of the applicants immediately preferred a representation on 18th December, 2003 whereby it was brought to the notice that MES Civilians have been allotted the defence pool accommodation to make up the deficiency of key personnel accommodation and these accommodations have been transferred by the Unit Pool by the Station Headquarter as per the settlement. It was also mentioned that there is no justification to direct the employees to vacate the said quarters. The said representations of the applicant's Union could not fetch any result. A letter dated 2nd January, 2004 came as bold from blue to the applicants, whereby it was directed that damage rent shall be imposed on the individual

from the 1st January, 2004 and further directed to recover the same. Neither the allotment was cancelled nor any notice or even letter dated 2nd January, 2004 is given to the applicants. The respondents should have provided an alternative allotment of the same type to the applicants or in the emergent circumstances an alternative residence of the type next below the type of residence in occupation of the officer should have been provided. This has not been done. The applicants filed OA No. 90/2004, which was decided by the Tribunal on 27.1.04 directing the respondents to decide the representations of the applicants i.e. submitted by the Union as well as the applicants in accordance with the SRO-308 and then act accordingly. The applicants submitted another representation on 3.2.2004 but the respondent No. 4 passed an order dated 9.3.2004, whereby the applicants were directed to vacate the accommodation by 31.3.2004. It was further mentioned in the same that if they failed to vacate the accommodation by the said date then damage rent for the accommodation shall be levied w.e.f. 1.4.2004, whereas the Tribunal directed the respondents to decide the representations of the applicants in view of the SRO-308. But the respondents have not considered it. Hence, this OA is filed by the applicants.

3.1 The brief facts of the case in OA No. 600/2004 are that the applicant is presently working as Upper Division Clerk under the EME Centre, Bhopal. He is residing in Government accommodation gr. No. P-151/1, EME Centre, Bhopal, which was allotted to him by the department in accordance with the allotment rules. Earlier another quarter was allotted to him but subsequently the applicant was allotted the present quarter. In this OA the applicant mentioned that his case is similarly situated to that of the applicants in OA No. 347/04; Aslam Aziz & Ors. Vs. UOI & Ors. In his case also the respondents should not have charged the damage rent from him.

A huge amount has been deducted from the applicant. In the result, it is very difficult for the applicant to pull the cart of his family in the present days of price hike. The applicant cannot be said to be an unauthorised occupant. Hence this OA is filed by the applicant.

3.2 The brief facts of the case in OA No. 612/2004 are that the husband of the applicant expired while in service on 13 February, 1988 leaving behind the applicant and other dependents. The applicant was granted compassionate appointment on the post of Stenographer. She was allotted the Govt. accommodation No. P-27/7 situated in Sultania Infantry Line, Bhopal by the respondent No. 3. The applicant being an employee serving in the defence organisation, is paid from the defence service estimate. Hence, she is entitled to rent free accommodation. The applicant was allotted the said quarter on extreme compassionate ground by the respondent No. 3. But thereafter, vide letter dated 20.9.2003, she was asked to vacate the accommodation by 20th October, 2003. The applicant moved a representation against it but the same was rejected. In this OA the applicant also mentioned that her case is similarly situated to that of the applicants in OA No. 347/04 Aslam Aziz & Ors. Vs. UOI & Ors. Hence, she has filed this OA.

4. Heard the learned counsel for the parties and perused the records very carefully.

5. It is argued on behalf of the applicants that the respondents have allotted the Government accommodation to the applicants strictly following the rules as there was an agreement on 23rd March, 1990 between the Union and the Station Head Quarter. In this it was mentioned that both the parties agree that the Station Pool accommodation occupied by the MES pers will be reverted as and when they fall vacant,



except 20 quarters def pool accommodation as earmarked for MES by Station Commander. By order dated 2nd January, 2004 Annexure A-1 in OA No. 347/2004 it is mentioned that inspite of repeated instructions issued by the headquarters, defence pool accommodation is occupied by the applicants and they have not vacated the same till date. The applicants further argued that their allotment letters have never been ordered to be cancelled by the respondents. But instead they have ordered to recover the damage rent from them. The applicants were not given any opportunity of hearing and no show cause notice was issued to them. The respondents have not followed the rules and procedures, before asking them to vacate the quarters which were duly allotted to them by the respondents. The learned counsel for the applicants also argued that the preference should be given to the army personnels but the employees civilians/who are equally serving the defence organisations should not be thrown out and also should not be ignored in toto.

6. In reply the learned counsel for the respondents argued that the MES employees Union CWE Bhopal Branch, entered with agreement alongwith the respondents in the year 1991 and their Union assured the Department that i) 40% accommodation will be vacated by one month after academic sessions, ii) balance will be vacated by end of December, 1999. There were 77 Govt. accommodation for MES employees. Due to availability of accommodation meant for uniform soldiers few of the accommodation was allotted to civilian paid out of defence budget under Army Headquarter letter dated 29th October, 1989. Since, now troops strength has increased to approx 11,000 accommodation has fallen short and uniform soldiers are waiting for a period of 6-8 months for their allotment. Due to the said reason the respondents issued a letter to vacate the accommodation which is meant for uniform soldiers and was

allotted to civilians on the agreement which was executed between the Department and the MES employees Union in the year 1991. As per the said agreement the applicants are bound to vacate the accommodation but they failed to do so and compelled the respondents to initiate the administrative action against them. Hence, the action of the respondents is perfectly legal and justified.

7. After hearing the learned counsel for the parties and on careful perusal of the records, we find that both the parties have argued about the agreement/executed between them on 23rd March, 1990 and 12th February, 1991 respectively. It is a settled legal proposition that the Tribunal cannot direct the respondents to fix the percentage of allotment of quarters either to the Military/Army personnels or to the civilian employees and also cannot frame any policy. This is the internal matter of the respondents. We further find that the ends of justice would be met if the respondents are directed to consider the whole matter after following the due procedure and also following the principles of natural justice. This matter is to be decided by the higher authorities because it shall have a cascading effect. Accordingly, the respondent No. 1 i.e. the Secretary, Ministry of Defence, is directed to frame a policy regarding allotment of Government accommodation to the Army personnels as well as civilian employees, so that this dispute of allotment of quarters can come to an end, within a period of three months from the date of receipt of a copy of this order. It is further ordered that till the policy is framed by the respondent No. 1, no coercive action be taken by them against the applicants with regard to vacation of Government quarters already allotted to them and imposition of damage rent.

QF

8. In view of the aforesaid observations, all the Original Applications are disposed of. There shall be no order as to costs.

9. The Registry is directed to supply the copy of memo of parties to the concerned parties, while issuing the certified copies of this order.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

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