

Central Administrative Tribunal, Allahabad
Bench, Allahabad

CCP No.330/00011/2013 in O.A. No. 330/00477/2012

Orders reserved on 10.3.2018

Orders pronounced on : 23.03.2018

Hon'ble Mr. Justice Dinesh Gupta, Member (J)
Hon'ble Mr. Gokul Chandra Pati, Member (A)

Raj Kumar Yadav 115/T-3/P.No. 1064457 s/o late Ram Harakh Yadav, R/o 7/8, Type I, G.T. Road, OEF, Colony, Kanpur.

.....Applicant

By Advocate: Sri A.D.Singh

Versus

1. Sri B.P. Mishra, Allotment Officer, Quarter /AGM, OEF , Kanpur.
2. Shri S.S. Naskar, Works Manager/A.G.M./Admn., O.E.F., Kanpur.
3. Shri A.K. Dwivedi, Assistant Works Manager/ Admn., O.E.F., Kanpur.

.....Respondents

By Advocate: Sri Arvind Singh

ORDER

Hon'ble Member Justice Dinesh Gupta, Member (J)

Heard the learned counsel for applicant Sri A.D. Singh and learned counsel for respondents Sri Arvind Singh.

2. The present contempt petition is filed against the interim order dated 13.4.2012 passed by this Tribunal through which Tribunal directed that "Till the next date, seniority list dated 31.3.2012 may be kept in abeyance."
3. Notices were issued to the respondents who in turn filed the counter reply through which it is stated that applicant is adamant for allotment of Type II (Ground/First Floor) quarter at G.T. Road, Road, Colony only. He is not ready to accept any Type II quarter in any other colony. It is further stated that allotment of Govt. Type II quarters have been strictly done on the basis of the SRO. The interim order dated 13.4.2012 passed by the Hon'ble Tribunal has not

been interfered with. New Seniority list have been prepared and circulated in their due course i.e. in July, 2012 and January, 2013 as per SRO. Hence the initial seniority list dated 31.3.2012 have became invalid after publication of the new seniority list on 21.8.2012 (for the month of July, 2013). This resulted in shifting of his seniority from 5 to 1st place . However, since as per SRO, preference is to be given to those employees who appear in change over list and are senior to him and allotment can be made to him only after allotment of the Type II quarters to them. There are 9 such employees in the Changer over list who were to be allotted the Govt. quarter before making allotment to the applicant. It is further submitted that since a fresh seniority list dated 2.1.2013 has been published, as such seniority list dated 21.8.2012 has also become ineffective and now the applicant is at 2nd position of the seniority list and the position of the employees in the change over list has also changed. At present there are about 11 numbers of employees senior to the applicant who have applied for change over and these employees have to be given preference over the applicant.

4. Respondents have again filed counter reply through which it is stated that as per SRO 149 dated 23.9.2004 Rule No. 16(4) , "The seniority list will be made on the basis of applications received from the eligible members entitled for Type I and Type II accommodation. This list will be prepared on the basis of seniority on first January and first July each year. It is further submitted that two types of seniority list are prepared. One for change over and another for allotment. For change over list, previous list stands and only new applications are added. For allotment, seniority list is prepared on the basis of seniority of qualifying pay grade. It

is further stated that for allotment , seniority list is valid only for six months. It is further stated that:-

- a) If there is no applicant in the changer over list then only quarter allotment will be made on the basis of allotment list
- b) First preference will be given to change over on the change over list basis
- c) Allotment on medical grounds on 5% quota basis for cases recommended by medial committee.
- d) If there is no candidate in the changeover list and also not in the allotment list for that quarter, then allotment will be made on the basis of seniority of applications received after making seniority list of allotment.

4.1 It is further submitted that in compliance of the Tribunal's order the seniority list dated 31.3.2012 has been kept in abeyance. No employee whose name appeared in the said list has been allotted Type II quarter. The old seniority list loses its validity after six month as per SRO 149 Rule 1694)

5. Rejoinder reply is field by the applicant through which it is stated that first seniority list dated 9.1.2012 was issued for allotment of Type II quarter and applicant was placed at SI. No. 1 but subsequently, respondents amended the said seniority list dated 9.1.2012 and issued another seniority list dated 313.2012 and applicant was placed at SI.No. 5 and the same has been stayed by the Tribunal vide order dated 13.4.2012. Respondents have flouted the interim order dated 13.4.2012 and passed another seniority list dated 21.8.2012 by which they have revived the seniority list dated 9.1.2012 and allotted the quarter to other person vide order dated

4.12.2012 which is a clear contempt of order passed by this Tribunal.

6. Respondents have filed the Supplementary Affidavit through which he has reiterated the facts as stated in the counter reply. However, it is further submitted that the respondents have not effected the seniority list dated 31.3.2012 till date. However, as per Rule 16(4) of SRO 149 dated 23.9.2004, the seniority list is to be prepared on the basis of seniority on first January and first July of each year which clearly demonstrate that no seniority list is continuous or permanent in nature but is subject to change after every six months meaning thereby that the validity of every seniority list is lost after every six months. As such seniority list dated 31.3.2012 has lost its validity after six months. Accordingly, a fresh seniority list was issued and as per seniority list, two employees Shri Ajay Kumar Bali and Sri Santosh Kumar were given allotment as per their seniority and allotment of these persons have no bearing with the old seniority list dated 31.3.2012, which has been stayed by the Hon'ble Tribunal.

7. Heard Shri A.D. Singh, learned counsel for the applicant and Shri Arvind Singh, learned counsel for the respondents.

8. Counsel for the applicant reiterated the facts as stated by him in the contempt petition and submitted that since the Court has kept the seniority list dated 31.3.2012 in abeyance then the earlier list came into play in which the applicant's name shown at serial no.1. However, the respondents have not allotted the quarter to the applicant as per his own choice and allotted the quarter to other persons. Thus, the respondents have flouted the aforesaid interim

Order of this Tribunal dated 13.4.2012 and as such the respondents be punished.

9. Counsel for the respondents submitted that as per the SRO for the purpose of allotment of quarters of the department, the respondents prepared the seniority list according to the choices given by the employees and their seniority and that list remains effective only for six months and such list will be prepared on first January and first July each year. Further the said list is valid only for six months and therefore the seniority list dated 31.3.2012 was expired after six months and after expiry of six months there is no question to keep the said list in abeyance.

10. Since the OA is still pending and the applicant has come up with the case of contempt of interim Order passed by this Tribunal dated 13.4.2012 by which the seniority list dated 31.3.2012 was kept in abeyance, as per the respondents' contention that seniority list was only a tentative list prepared for the purpose of allotment of quarter to the eligible employees on the basis of their choices and according to their seniority and the said list is only effective for six months and further the said list dated 31.3.2012 is not in existence after expiry of six month, there is no question of keeping the same in abeyance since after expiry of six months, such seniority list was prepared again and again and now we are in 2018. As such there is no question of defying the interim Order dated 13.4.2012 vide which seniority list dated 31.3.2012 was kept in abeyance. Further there was no direction by this Tribunal to make allotment of the quarter to the applicant of his own choice or not to allot any other quarter(s) to other persons. Hence, no case for contempt is made out by the counsel for the applicant.

Accordingly, the present Contempt Petition is dismissed. Notices issued to the respondents are discharged. There shall be no order as to costs.

11. The applicant's grievance regarding non-allotment of suitable accommodation to him can be considered at the time of disposal of the OA.

(GOKUL CHANDRA PATI)
MEMBER (A)

(JUSTICE DINESH GUPTA)
MEMBER (J)

/HLS/ravi/-