

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.182/2017

Date of Decision: 27th October, 2017

CORAM: Hon'ble Shri R. Vijaykumar, Member (A)

Suresh Ramchandra Dandge, Dresser,
Group C, aged 35 years, of NAD Trombay,
And residing at : P-26/4, Ayudh Vihar, NAD
Colony, Mankhurd, Mumbai-400 088.

...Applicant.

(By Applicant Advocate: Shri.A.I. Bhatkar)

Versus.

1. The Union of India
Through The Secretary, Ministry of Defence,
South Block, New Delhi-110001.

2. The Chief of Naval Staff,
Integrated Headquarters,
Ministry of Defence (Navy),
Director General of Naval Armament,
Sena Bhavan, New Delhi-110 011.

3. The Flag Officer Commanding-in-Chief,
Headquarters, Western Naval Command,
Shahid Bhagatsingh Road,
Mumbai-400 001.

4. The Chief General Manager,
Naval Armament Depot, Gun Gate,
Shahid Bhagat Singh Road,
Mumbai-400 023.

5. The General Manager,
Naval Armament Deopt, Trombay,
Munmbai-400 088.

... Respondents

(Respondents by Advocate Shri D.A. Dube).

Reserved on : 03.10.2017.

Pronounced on : 27.10.2017.

ORDER

Per:- R. Vijaykumar, MEMBER (A)

This application was filed on 08.03.2017 seeking the following reliefs:-

“(a). This Hon’ble Tribunal will be pleased to call for records and proceedings pertaining to the impugned orders dated 22.02.2017 and 04.03.2017 and after going through the legality and validity of the same quash and set aside the same.

(b). This Hon’ble Tribunal will be graciously pleased to hold and declare that the Applicant is eligible for allotment/change of quarter No.P-26/4 and direct the Respondents accordingly.

(c). This Hon’ble Tribunal will be graciously pleased to pass such other and further orders as deemed fit in the facts and circumstances of the case.

(d). Cost of this application be awarded to the Applicant.”

2. The facts of the case are that the applicant is employed with Naval Armament Depot, Trombay and became eligible for Type-II quarter in August, 2014. He was allotted Type-II Quarter No.P-11/10, Ayudh Vihar, NAD Colony, Mankhurd, Mumbai-400088 vide Allotment Order dated 04.07.2016 and took possession of this flat on 21.07.2016. He then requested for change of quarter and filed an application on 20.09.2016 claiming that he needed a flat in the first floor since his father had undergone Angioplasty in 2010, six years previously and his mother was a diabetes patient with hypertension and both were receiving treatment in Pune. Against his application, he was issued Allotment Order dated 14.02.2017 by the Project Officer on behalf of the General Manager allotting Flat No.P-26/4 on the first floor. He has alleged that respondents cancelled this allotment without citing reasons. Allied facts in this case as provided in the reply and rejoinder are that under the applicable rules, a person who had obtained allotment can apply in proper format for change in allotment only six months after

occupation. In this case, the individual took charge of the new Flat No.26/4 on 14.02.2017 and vacated his previous flat on 18.02.2017. A cancellation order for the new allotment was issued by the same Project Manager on 17.2.2017.

3. The applicant's case is that he needed this flat because his parents are old and they are staying with him, that he was eligible for Type-II quarter and was permitted to change the quarter as per rules.

4. In their reply, the respondents have contested the need cited by him for residence by him parents on the grounds that his father is an employee of Ordnance Factory, Bhusawal and he was not stated to be his dependent. Further, the individual had applied well within six months of occupation of his first quarter which is not permissible and had also not used the prescribed format which was entirely against the rules. Moreover, two employees of NAD, Mumbai who had asked for change of quarters on 22.03.2016 were still to be given alternative accommodation whereas the applicant was not even in the roster

for change of Type-II accommodation. They have enclosed a statement of the concerned clerk of his oral communication with the applicant on 16.02.2017 based on the instructions of the General Manager that the applicant should not shift but the applicant informed him that he had already incurred expenditure on painting. The Quartering Committee which met on 22.02.2017 considered this matter in view of the fact that two employees who were in the roster had been overlooked for the applicant, who was not even listed in the roster for change of quarter. Accordingly, the Quartering Committee recommended cancellation of change in allotment. All these messages had no effect on the applicant who completed the process of transferring of personal goods and occupation of a new quarter.

5. The applicant in his reply has referred to Directorate of Estates SR-317-B-15 which allows an officer to change residence of the same type for one occasion and no more. The applicant argues that he fell within the scope of this rule. Further, the applicant contends that the employees

of the NAD, Mumbai are entitled to only 14 quarters in this complex and all these 14 quarters have been allotted to such employees. Therefore, two employees listed in the roster are not relevant and senior for the purpose of denying him a change of quarter.

6. Heard the learned counsel for both the parties and the references made to rules have been considered carefully.

7. The relevant rule for allotment for these quarters can only be special to the circumstances of the NAD and the needs and priorities of that department. Therefore, the general scheme rules of the Director of Estates can be more strictly applied in these special cases. This has been done in this case by enforcing a rule of six months between transfers which is not inconsistent with the general rules argued by the applicant. In particular, the applicant's reference also specifies under SR-317-B-15 that for change of accommodation, application should be made in prescribed form and after the inclusion in the computerized waiting list, the inter-se seniority

will be determined on first-come-first-served basis.

8. In the present case, the applicant was not even in the roster, had not filed the prescribed forms, while two employees of NAD, Mumbai were in the waiting list roster and senior by prior application.

9. The applicant's arguments that NAD, Mumbai employees already had 14 quarters is clearly incorrect since the proposal involved here is for change of quarter which does not increase the number of quarters allotted to employees of NAD, Mumbai. Therefore, considering the above facts and manner in which the allotment process had been carried out, it is apparent that the process of change of quarters indulged in by the applicant is not above board and there are no merits whatsoever in his retention of the changed flat. It might be argued that the actual takeover of the flat on 14.2.2017 occurred six months after he occupied the previous flat. However, this does not rectify the lapses that had occurred in the manner of his allotment. The more significant and substantive

issue is that the two persons who had been waiting for change of accommodation for nearly one year have been deprived by the applicant and it appears that the Project Officer and the Officer-in-charge cannot escape their responsibility for the improprieties that appears to be involved. While that is an issue of disciplinary action by the concerned authority, in the present case it is clear that the applicant has not displayed a transparent and legally secure approach and cannot therefore approach this Tribunal for any relief to confirm his illegal actions. He should therefore vacate the accommodation immediately. However, the authority concerned may wish to consider provision of accommodation in his previous flat or an alternate flat or else permit retention in the same flat depending upon their administrative exigencies and applicable rules and after due consideration in the Quartering Committee.

10. In the circumstances, this OA is dismissed and there will be no order as to costs.

(R. Vijaykumar)

Member (A)

Ak/-

