

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 181/00853/2017

Monday, this the 30th day of July, 2018

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

Mohammed Shaffee P.C., Junior Engineer (Electrical),
 Electrical Subdivision, Lakshadweep Office,
 Wellington Island, Kochi.

..... **Applicant**

(By Advocate : Mr. K.B. Gangesh)

V e r s u s

1. The Administrator, Administration of the Union Territory of Lakshadweep, Kavaratti – 682 555.
2. Local Accommodation Board, Administration of Union Territory of Lakshadweep, Lakshadweep Office, Kochi, represented by its Member Secretary – 682 003.
3. Chairman, Local Accommodation Board, Administration of the Union Territory of Lakshadweep, Lakshadweep Office, Kochi – 682 003.
4. K. Cheriyaakoya, Deputy Director (Supply & Transport), Lakshadweep Office, Wellington Island, Kochi – 682 003.

..... **Respondents**

(By Advocate : Mr. S. Manu)

This application having been heard on 25.07.2018 the Tribunal on 30.07.2018 delivered the following:

ORDER

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member –

OA No. 181/853/2017 is filed by Shri Mohammed Shaffee P.C., Junior Engineer (Electrical) under the Department of Electricity of Lakshadweep Administration in Lakshadweep Office, Kochi against the

order of allotment of type-IV quarter to the 4th respondent in Lakshadweep Residential Quarters at Panampilly Nagar, Kochi overlooking the applicant's claim for the same. Order F. No. G2-AEC-2017 dated 3.10.2017 issued by the 2nd respondent is under challenge. The relief sought in the OA are as follows:

- “(i) Set aside Annexe A1 office order issued by the 2nd respondent allotting a type-IV quarter to the 4th respondent overlooking the applicant's claim;
- (ii) Direct respondents 2 and 3 to take up Annexe A2 application for allotment of Type-IV quarter preferred by the applicant and to sanction the same forthwith by withdrawing the allotment of Type-IV quarter illegally sanctioned to the 4th respondent;
- (iii) to issue such other order or direction as this Hon'ble Tribunal made deem fit in the facts and circumstances of this case.
- (iii) To award costs to the applicant.”

2. Applicant, a Junior Engineer (Electrical) under the Department of Electricity of Lakshadweep Administration, joined Kochi office on 22.10.2016. He is aggrieved by the impugned order at Annexure A1 whereby type-IV accommodation in the official quarters has been allotted to respondent No. 4 ignoring the applicant's claim for the same. He submits that only a Government servant who was drawing a basic pay in the category of Rs. 8,000/- to Rs. 11,999/- between 1.1.1996 and 1.1.2006 is eligible for type-IV quarter under the Administration. He, who was drawing a basic pay of Rs. 8,500/- as on 4.2.2003, is eligible for type-IV accommodation upon joining at Kochi. When one quarter fell vacant on 5.6.2017 the applicant preferred a claim to the 2nd respondent on 27.7.2017 (Annexure A2). Respondents Nos. 2 & 3 who were duty bound to consider the claim of the applicant delayed action on the same and instead allotted

the available quarter to respondent No. 4 as per the impugned order.

3. The applicant contends that the 4th respondent is not eligible for allotment of Type-IV quarter as he was not receiving a basic pay of Rs. 8,500/- to Rs. 11,999/- between 1.1.1996 and 1.1.2006. Going by the basic pay and the Grade Pay which now he is receiving even now, the 4th respondent is entitled only to type-III and is illegally being given a higher type-IV facility.

4. Among grounds the applicant alleges that two others are occupying type-IV quarters in Kochi who are not eligible for the same and it is evident that respondents Nos. 2 & 3 are allotting quarters as per their whims and fancies ignoring the rules of eligibility and preference.

5. Respondents Nos. 1 to 3 have filed reply statement. Respondent No. 4 did not answer the summons and was set ex parte. In the reply statement the respondents 1 to 3 submitted that the applicant was not eligible for type-IV quarters. He had himself applied for type-III quarter as per Annexure R1(a) fully knowing that he was only eligible for the same. It was further submitted that from 1.1.2006 the eligibility for allotment of quarters have been determined on the basis of Grade Pay. By this system, a person drawing the Grade Pay of Rs. 4,800/-, as is the case with applicant, is eligible only for type-III quarters. This was the reason that the applicant decided to apply for type-III quarters and accepted the same as per allotment on 3.3.2017.

6. Annexure A2 application stated to have been submitted by the applicant is the result of an after thought. It conceals the Grade Pay that he is getting. This was in order to hide the fact that he was getting only Rs. 4,800/- as Grade Pay whereas to become eligible for type-IV quarter the applicant ought to be drawing the Grade Pay of Rs. 5,400/- or Rs. 6,600/-.

7. The applicant has filed a rejoinder reiterating the contention raised in the OA. He affirms that he was eligible for a type-IV quarter on the basis of of his basic pay which he was receiving during the period from 1.1.1996 to 31.12.2005.

8. Heard Shri K.B. Gangesh, learned counsel appearing for the applicant and the learned Standing Counsel for the Lakshadweep Administration. The critical documents in order to assess the eligibility of the applicant for allotting type-IV quarter are the eligibility certificate at Annexure A2/2 and the amendment order to the Rule for the allotment of government residence in Kochi dated 12.3.2011 at Annexure A4. As per the first document the eligibility certificate (Annexure A2/2) based on basic pay for type-IV, the eligibility is as follows:

Type of quarter	Basic pay drawn		Grade Pay	
	For the period from 1.1.1973 to 31.12.1985	For the period from 1.1.1986 to 31.12.1995	For the period from 1.1.1996	For the period from 1.1.2006
Type IV	From Rs. 1000.00 to Rs. 1499.00	From Rs. 2800.00 to Rs. 3599.00	From Rs. 8500.00 to Rs. 11999.00	Rs. 5,400 and Rs. 6,600

While the applicant's contention that he was getting basic pay of Rs. 8,500/- for the period from 1.1.1996 till 1.1.2006 is not countered by the

respondents, he apparently is enjoying a Grade Pay of only Rs. 4,800/- which is below Rs. 5,400/- and Rs. 6,600/- category.

9. In Annexure A4 document which is an amendment to the rule of allotment of government residential accommodation at Kochi the eligibility as per the same is emphasized. However, in Annexure A4 amendment the note attached to it provides as follows:

“If the eligibility of any Government servant is lowered due to this order based on the Grade Pay, they shall continue to retain the previous entitlement per pre-revised pay range till become eligible as per Grade Pay of Revised Pay.”

(emphasis supplied)

10. The learned counsel for the applicant emphasized the fact that till 1.1.2006 the applicant was clearly eligible for allotment of the said category as he was getting the basic pay of Rs. 8,500/- and eligibility came to be lowered by the introduction of the Grade Pay criterion in Annexure A4. He forcefully put forward the contention that the note adds the proviso specially protecting certain category of persons such as he, whose eligibility came to be lowered by the order.

11. The learned Standing Counsel for the Lakshadweep Administration argued against this interpretation stating that the term “they shall continue to retain the previous entitlement” is only with regard to persons who have already been allotted accommodation and is retaining their existing allotment. He further argued that the respondent administration does not have any powers to depart from the rules for allotment of government

accommodation approved by the Government of India.

12. I do not think either of the arguments of the learned Standing counsel for the Lakshadweep Administration are valid. A simple reading of the proviso enshrined in the note in Annexure A4 indicates that it is meant to protect the previous entitlement right of claimants for government accommodation and nowhere does it imply that it is for retention of accommodation already granted. The second argument that the respondent administration does not have the power to amend the rules seem to fly in the face of the subject of Annexure A4 document itself which notates as below:

“Sub: - LPWD (Circle) – Amendment to the rule for allotment of Govt. Residential Accommodation in Kochi – Regarding.”

13. On an examination of all relevant facts and pleadings both documentary and oral before this Tribunal, I come to the conclusion that the OA has merit on its side. Accordingly, the reliefs sought in the OA are allowed. The allotment of type-IV accommodation to the applicant, if necessary by vacating a quarter currently occupied by 4th respondent, shall be done within 30 days of receipt of a copy of this order.

14. The OA is allowed as above. No order as to costs.

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 181/00853/2017**APPLICANT'S ANNEXURES**

- Annexure A1** – True copy of office order F. No. G2-AEC-2017 dated 3.10.2017 issued by the 2nd respondent.
- Annexure A2** – True copy of application for allotment of Type-IV quarter with covering letter dated 27.7.2017 submitted by the applicant.
- Annexure A3** – True copy of letter dated 28.7.2017 issued by the Asst. Engineer (Electrical) to the 2nd respondent.
- Annexure A4** – True copy of order f. No. 33/2/2002-C5(2)/418 dated 12.3.2011 issued Lakshadweep Public Works Department.

RESPONDENTS' ANNEXURES

- Annexure R1(a)** – True copy of the form of application for allotment of quarters submitted by the applicant on 26.12.2016.

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