

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI**

**O.A.NO.143 OF 2012**

**TUESDAY, THE 12TH DAY OF MARCH, 2013/21ST PHALGUNA 1934**

**CORAM:**

**HON'BLE MR. JUSTICE SHRI KANT TRIPATHI, MEMBER (J)  
HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)**

**APPLICANT:**

**IC43595W COL.K.N.SREEKUMAR, AGED 48 YEARS,  
S/O SRI.N.K.NAIR, NCC GROUP HEADQUARTERS,  
BARRACK GROUNDS, GANDHINAGAR,  
BERHAMPUR (GM) -760 001, ORISSA.**

**BY ADV. SRI. V.K.SATHYANATHAN**

**VERSUS**

**RESPONDENTS:**

- 1. UNION OF INDIA, REPRESENTED BY ITS  
SECRETARY, MINISTRY OF DEFENCE  
SOUTH B LOCK, NEW DELHI – 110 011.**
- 2. THE CHIEF OF THE ARMY STAFF,  
COAS'S SECRETARIAT,  
INTEGRATED HEAD QUARTERS MINISTRY OF DEFENCE (ARMY),  
SOUTH BLOCK, NEW DELHI -110 011.**
- 3. QUARTERMASTER GENERAL, QUARTERMASTER GENERAL'S BRANCH,  
INTEGRATED HEAD QUARTERS MOD (ARMY),  
B-WING, SENA BHAWAN, NEW DELHI -110 011.**
- 4. STATION COMMANDER, HEADQUARTERS K & K SUB AREA,  
CUBBON ROAD, BANGALORE – 560 001.**
- 5. ADM COMMANDANT, STATION HEADQUARTERS CELL,  
CUBBON ROAD, BANGALORE – 560 001.**

**BY ADV.SRI.K.M.JAMALUDHEEN, SENIOR PANEL COUNSEL.**

**ORDER****THOMAS MATHEW (MEMBER A)**

1. The applicant is a serving officer of the Army who is aggrieved by the denial of an entitled separated family accommodation by Station Head quarters, Bangalore on his posting out to Berhampur. He has prayed for an order quashing the allotment of non-entitled accommodation to him and declare the policy followed by the respondents as discriminatory to the officers posted at National Cadet Corps. As an interim relief it is requested that he be permitted to retain the present accommodation he is staying in till such time a proper separated family accommodation is allotted to him.

2. The applicant was posted with the National Cadet Corps (NCC) at Bangalore till he was posted to Berhampur NCC Group Headquarters on 02.07.2012. Since he had been posted to a Hard Non Military Station, he requested for retention of the accommodation he was occupying and allotment of a Separated Family Accommodation (SFA) as per existing policy.

The applicant was allotted a SFA at Netravati Block at National Games Village (NGV). It was contended by the applicant that the accommodation at NGV is not as per normal authorization of SFA and it is discrimination meted out by the local authorities to officers posted with NCC. He approached the Quarter Master General's (QMG) Branch at Army Headquarters and the GOC-in-C Southern Command requesting for their intervention in this issue. Copies of the representation was given to the GOC K & K Sub Area and the Director General of NCC. However, since he did not get a favourable response from these authorities he approached the Armed Forces Tribunal. At the time of the admission the learned counsel for the applicant prayed for an interim stay in the orders of respondents since such action was discriminatory to officers posted to NCC. The Bench considering the submission granted an interim stay in favour of the applicant till next date of listing.

3. The applicant's contention is that the denial of an entitled SFA to him and other officers posted to NCC is

discriminatory and against the Government of India's letter dated 22.10.1991 and Army Order 191/79 and Special Army Order 10/S/86. The Station Headquarters, Bangalore by their order of 10.12.2011 (Annexure A-5) has segregated officers posted to NCC and earmarked the National Games Village accommodation as SFA on their posting out to a Hard Non Military Station(HNMA). The accommodation at NGV was earlier being allotted as temporary accommodation to officers who are posted to Bangalore and waiting for a permanent accommodation. These accommodations are not as per entitlement in terms of plinth area, servants room and garage. Most of the occupants in the NGV complex are civilians and there is security concerns for the families being in their midst.

4. It is submitted that provision of SFA was introduced based on the Government of India, Ministry of Defence letter dated 22.10.1991 (Annexure A-4). Since then officers applying for SFA at a particular station were placed in two categories viz., Priority I-Officers posted from that station

to a Field/Modified Field/HNMS and Priority II – Officers from outstation posted to a Field/Modified Field/HNMS. This system was diluted by QMG Branch letter of 29.07.2004 (Annexure A-6) by which the officers posted to NCC were placed at Priority III on their posting to HNMS. However, this order has become obsolete due to non-implementation of this system by other stations. It was submitted that Station HQ Chennai and Station HQ Kolkata and several other HQs have never discriminated against officers posted to NCC in any way. The Station Quartering Committee meeting of Chennai Station HQ has placed officers posted to NCC at Priority I (Annexure A-19) on their posting to HNMS and similar action is being taken by Station HQ, Kolkata also. It is submitted that while the Ministry of Defence policy on parity of accommodation is clear, the QMG Branch has changed the entitlement of officers posted to NCC by introducing priority III.

5. The applicant has also contended that QMG Branch letter of 14.09.2004 (Annexure A-7) quoted to justify

allotment of SFA in temporary accommodation pertains only to stations where regular SFA do not exist. It has also been pointed out that the temporary accommodation at NGV is not being allotted to other officers posted to field areas. Further the accommodation at NGV is not in accordance with the prescribed scales of accommodation and there are security concerns for the families staying at the complex. It is reiterated that the policy adopted by Station HQ, K and K Sub Area, Bangalore is discriminatory towards officers posted to NCC hence illegal and against natural justice.

6. The respondents have averred that the applicant was allotted SFA as per existing orders on the subject. The Army HQs, QMG Branch letter of 29.07.2004 (Annexure R-9) has laid down that officers posted to NCC will be placed in Priority III for allotment of SFA. In QMG Branch letter of 14.09.2004 (Annexure R-10), it is amplified that where no regular SFA exist, the station commanders are to make efforts to accommodate separated families in temporary/lower

accommodation . The Army HQ has issued yet another letter dated 25.08.2009 (Annexure R-11) which does not over rule Annexures R.9 or R.10. It has been submitted that Station HQ, Bangalore is following all these instructions as laid down by the Army HQ.

7. It has been submitted by respondents that Bangalore Station is authorized 194 separated family quarters but holds only 136 quarters. In order to overcome the difficulties being faced by officers seeking SFA, the Station Commander decided to reappropriate 58 quarters of NGV as separated family accommodation. This move has provided some accommodation to the Priority III category of officers instead of having no accommodation at all. Out of 214 quarters at NGV for officers, 58 have been earmarked as SFA. It has been averred that accommodation at NGV has been allotted to all entitled officers from Lieutenants to Brigadiers. Out of the 58 officers occupying these accommodation; 12 officers are posted to NCC organizations in HNMS and remaining

38 are posted to field/high attitude/counter insurgency areas. There is no distinction being made by Station Headquarters, Bangalore in allotment of SFA.

8. It is averred that the applicant expressed unwillingness to accept the SFA allotted to him at NGV. His representation to the Inter Service Quartering Committee (ISQC) was considered at the meeting on 09.08.2012. Thereafter the officer was informed that he could either occupy the accommodation allotted or opt for a Non Availability Certificate and claim HRA as per existing policy. The officer was therefore allotted the accommodation at NGV and asked to take over the same within 20 days and vacate the regular accommodation occupied by him which is meant for officers posted to Bangalore. It was also stated that in case he failed to take over the SFA allotted, his occupation of present accommodation will be deemed as unauthorized and liable to be charged damage rent. The Army HQ vide their letter of 07.09.2012 (Annexure R-21) and Headquarters Southern



Command's letter of 05.09.2012 (Annexure R.22) have also confirmed the action taken by Station HQ, Bangalore in this case. It is also submitted by the respondents that the applicant without stating the true and correct facts had approached the Tribunal Bench and obtained a stay order. Further, provisions of Government order or Army Order/ Special Army Order have not been diluted in any manner by the Station HQ, Bangalore. All the actions that have been taken in appellant's case is as per the law hence the prayer of the appellant deserves to be dismissed.

9. In a rejoinder to the reply statement by the respondents, the applicant has reiterated his contention that officers posted to NCC are being discriminated by placing them in Priority III category and secondly that the applicant being a locally posted officer was wrongfully placed in Priority III and allotted a non-scaled accommodation. It has also been submitted that Station HQ, Chennai has granted an officer posted to Berhampur NCC (HNMS) Priority I status. The

applicant has also questioned the veracity of Annexure R.21. He has prayed for declaring the letter of QMG Branch fixing Priority III in case of officers posted to NCC as discriminative and quash the allotment of non-scaled accommodation to him, and place him in Priority I category for SFA and permit him to retain his present accommodation till allotted an entitled SFA at Bangalore.

10. The respondents have filed a reply to the rejoinder filed by the applicant. In that they have denied the allegations made by the applicant and has given facts and figures of the plinth area, the details of officers allotted SFA at NGV and the security arrangements in that complex. It has been contended that any local policy followed by Chennai or any other Station HQ is not an authority for allotment of accommodation at Bangalore. It is submitted that the procedure adopted by Station HQ Bangalore is in consonance with the Army HQ policies.

11. We have heard both sides and perused the Government Orders, SAO, AO and Policy letters issued by Army HQs and K & K Sub Area on allocation of Separated Family Accommodation (SFA) to officers. The main contention of the applicant is that he should have been placed in Priority I category for SFA at Bangalore instead of Priority III. Secondly it is argued that QMG Branch has created Priority III category which is discriminatory to officers posted to NCC and against Government orders. The respondents have submitted that they have acted as per the law and there is no discrimination in allotting SFA to NCC officers. In the rejoinder by the applicant and the reply by the respondents, issues regarding plinth area, security, names of officers allotted SFA and practice followed at Chennai and Kolkota have also been submitted and clarified. The main issue that is to be resolved in this case is whether the respondents acted as per existing orders or otherwise in allotment of SFA to the applicant.

12. The Army Order 191/1979, Special Army Order 10/S/1986 and Ministry of Defence letter of 22.10.1991

(Annexure A-4) gives out the broad policy of authorization of accommodation including SFA and the personnel entitled to occupy these accommodation and the methodology of charging rent and allied charges. It is evident that the QMG Branch at Army HQ exercises control over the accommodation and land in the charge of the Army through respective Command HQs and Area/Sub Area HQs. The Station HQs implements the policy at functional level. Detailed instructions on construction, hiring, allocation of government accommodation and its maintenance is issued by the QMG Branch. In the Government order of 22.10.1991 (Annexure A-4) or the Army Order 191/1979 or Special Army Order 10/S/1986 we do not find any mention regarding methodology for allocation of accommodation in a station or classification of waiting list into various priority categories. It is therefore, clear that it is the responsibility of the Army HQs and Command DQ to lay down instructions for utilization of these accommodation in the best possible way. These instructions are updated from time to time based on feed back from various HQs and availability of additional

quarters due to new constructions. Under the circumstances, we do not find any wrong doing on the part of the Army HQs, QMG Branch in laying down guidelines in allocation of accommodation or laying down priority for waiting list. In case any other local station committee has not followed the laid down instructions it is for the next higher HQ's to correct the aberration. We do not believe that any Station HQ would flout the rules laid down by Army HQs and Command HQ and because of that the rules would become obsolete as claimed by the applicant. Further, the accommodation at NGV have larger living area 119.94 sqm. as compared to normal authorization of 83.61 sqm. However these quarters do not have a servants quarter and open space is provided instead of covered garage. In any case Army HQ has authorized Station HQs to hire or reappropriate accommodation where no regular SFA is available. Being a question of 'no accommodation' vis-a-vis 'some accommodation', the Station HQs has earmarked 58 quarters out of 214 at NGV as SFA. There are more than 150 officers and families of armed forces living in this complex

which includes officers posted to Bangalore and separated families. We are therefore convinced that the respondent have acted in the interest of officers and families within the parameters of existing rules and regulations.

13. We have also observed that QMG Branch Army HQs has issued instructions as far back as in 2004 regarding three categories of waiting list for SFA. The Army HQs and Command HQs have not found it necessary to change it in the last 9 years. We find that the applicant had made representations without any success to the Army HQs, Command HQs as well as the DG NCC and the Commander K & K Sub Area. The Station HQ, Bangalore has taken action in this case in consonance with the directions of Army HQ QMG Branch and the HQ Southern Command. It is seen from the documents that quarters at NGV have been allotted as SFA to officers posted to NCC as well as other officers posted to field areas. A total of 214 quarters are being utilized by HQ K & K Sub Area at NGV complex. The respondents have offered alternate

remedies to the applicant in terms of the AO 191/79 and SAO 10/S/86 in case he did not want to occupy SFA at NGV. However he has refused to accept that solution and wants to stay on in the accommodation earmarked for officers posted at Bangalore. We therefore, find no substance in the allegation that the applicant has been discriminated against by the respondent.

14. It is our considered opinion that the Army HQs, QMG Branch is competent to issue instructions to prioritize the waiting list of SFA as communicated in their letter of 29.7.2004 (Annexure A-6). We do not find any irregularity in earmarking quarters at NGV for separated families to overcome the long waiting list for SFA. Further, the Station HQ, Bangalore has implemented the instructions of Army HQ by placing the applicant in Priority III for a Separated family accommodation at NGV. Therefore, we do not find any reason to interfere in the orders passed by the respondents in this case.

15. In the result, the O.A.is disposed of with following directions:-

(a) The interim stay granted earlier in favour of the applicant stands vacated.

(b) The O.A. is dismissed.

16. There will be no order as to costs.

17. Issue free copies to both party.

Sd/-  
LT.GEN.THOMAS MATHEW,  
MEMBER (A)

Sd/-  
JUSTICE SHRI KANT TRIPATHI,  
MEMBER (J)

**//True copy//**

**SV**