

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

(Reserved on : 28.03.2016)

Coram

The Hon'ble Mr. Justice T.RAJA

W.P. Nos.19049 and 19050 of 2015

G.Tamilarasi

... Petitioner in both WPs

Vs

1.Government of India,
Rep. By the Secretary,
Ministry of Shipping,
No.1, Sansad Marg,
New Delhi - 110 001.

2.Indian Maritime University,
Rep. By its Registrar,
Chennai Campus,
East Coast Road, Uthandi,
Chennai - 600 119.

3.The Deputy Registrar (Admin),
Indian Maritime University,
Chennai Campus,
East Coast Road, Uthandi,
Chennai - 600 119.

... Respondents in both WPs

Prayer in W.P.No.19049 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus to call for the records relating to the order bearing Ref.No.IMU/CC/01/STAFF/EST/2015, dated 19.06.2015 passed by the third respondent and to quash the same as being illegal, arbitrary and contrary to their letter dated 18.12.2014 and for a consequential mandamus to permit the petitioner to retain the staff quarters No.5 on payment of market rent as per letter dated 18.12.2014.

Prayer in W.P.No.19050 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue Writ of mandamus to direct the second respondent University to consider and give compassionate appointment to the petitioner's son in terms of the Award dated 10.10.2014 passed by the Central Government Industrial Tribunal in I.D.No.01 of 2014 and Central Government Rules.

In Both Writ Petitions:

For petitioner .. Mr.V.Govardhan

For R2 & R3 .. Mr.K.R.Tamizhmani

For R1 .. No Appearance

C O M M O N O R D E R

The petitioner has filed two writ petitions; (i) to retain the quarters given by the second respondent University to her husband, who had died on 21.10.2014 while in service, on payment of rent fixed by the University, (ii) to direct the second respondent University to consider and give compassionate appointment to her son in terms of the Award dated 10.10.2014 passed by the Central Government Industrial Tribunal in I.D.No.01 of 2014.

2. The petitioner's husband Late T.Ganesan was initially appointed as Driver in the National Institute of Port Management on a consolidated salary of Rs.1000/- per month on 14.10.1989. After some time, he was absorbed permanently. However, during employment, the petitioner's husband died on 21.10.2014 leaving behind the petitioner and two children and they were staying in the official quarters. Therefore, after the demise of her husband, she made a representation dated 21.11.2014 requesting the second respondent University to retain the quarters for some time on humanitarian grounds. Accepting such request, the second respondent, vide letter dated 18.12.2014, permitted her to retain the quarters initially on a rent of Rs.250/- per month for 4 months and thereafter at a market rent of Rs.5064/- per month. Again, after expiry of four months, she made another representation dated 03.03.2015 to the second respondent University requesting to continue in the quarters till the alternative arrangements made. However, the second respondent University, by way of passing the present impugned order, directed the petitioner to vacate the quarters on the ground that the service conditions of the erstwhile National Maritime Academy (NMA) and Section 49(ii) of the Indian Maritime University (NMU) Act do not permit to stay in the IMU quarters beyond four months. Aggrieved by the impugned order, when the petitioner has filed Writ Petition No.19049 of 2015, this Court, by admitting the writ petition, granted interim order of stay against the impugned order directing the petitioner to vacate the official quarters on 29.06.2015. Pursuant to the interim order passed by this Court, she has been residing over there with her two children.

3. Assailing the impugned order, learned counsel appearing for the petitioner submitted that the impugned order passed by the second respondent directing to vacate the quarters is arbitrary, especially when they have not even disposed of the representation dated 09.12.2014 of the petitioner for appointment on compassionate ground to her son-G.Chanakiyan. It is further submitted that as per the award passed by the Central Government Industrial Tribunal in I.D.No.1 to 2012, dated 10.10.2014 directing the University to give employment on compassionate ground in terms of the Central Government Rules to those who have applied for the same on the demise of employee, the second respondent University ought to have given appointment on compassionate ground to the petitioner's son, who has studied B.E. (EEE) and has fulfilled all the parameters in terms of the Central Government Rules. However, the direction of the second respondent, without giving appointment on compassionate ground by disposing of her application, to vacate the staff quarters, is unjust and unfair, he pleaded. It is further submitted that although the petitioner's son has completed B.E. (EEE) in the year 2012, he is ready to work in any post, therefore, the second respondent University need not unnecessarily delay the process in considering the request of the petitioner for appointment on compassionate ground.

4. Learned counsel appearing for the respondents 2 and 3, by filing a detailed counter affidavit, submitted that the petitioner's husband was employed as a driver in the erstwhile National Maritime Academy (NMA), a registered Society, which was merged with the University on 14.11.2008. While in service, he passed away on 21.10.2014. However, since the NMA Rules and Regulations were silent about how long the family can be allowed to retain the quarters after the death of an employee and it did not adopt the Madras Port Trust Regulations on this topic, the second respondent University, vide letter dated 18.12.2014, on humanitarian grounds, based on the request of the petitioner, permitted her to retain the quarters only for 4 months at normal rate with a further condition that the rent beyond the permissible period of 4 months will be Rs.5064/- per month as per the said Madras Port Trust Rules and that IMU reserves the right not to permit retention beyond 4 months, if it deems fit.

5. Learned counsel for the respondents 2 and 3 further stated that again after expiry of 4 months period, the petitioner, by a letter dated 03.03.2015, requested permission to stay in IMU quarters for 3 months, which was also permitted by the University by letter dated 12.03.2015. But, surprisingly, he pleaded, the petitioner made one another representation dated 03.06.2015 requesting the University to grant permission to stay in the IMU quarters for a further period of six months. Therefore, it is contended, after enjoying two extension of time, the petitioner, without making

any serious attempt to search for a house outside, has been requesting the second respondent to stay in the official quarters beyond the time limit given in two extensions, therefore, the second respondent University has rightly rejected the request of the petitioner in seeking extension of time on third time, with a further direction to vacate the quarters before 30.06.2015. However, even now, she has been residing over there pursuant to the interim stay granted by this Court on 29.06.2015, therefore, he pleaded, the petitioner cannot be permitted to occupy the quarters endlessly on the ground that her application for appointment on compassionate ground is pending. It is true, he pleaded, that an application dated 09.12.2014 received from the petitioner seeking appointment on compassionate ground for her son is pending, but, the Rules and Regulations of the erstwhile NMA do not provide for compassionate ground appointments and no such appointments were made in the erstwhile NMA, hence, he pleaded, it is not possible to permit her to occupy the quarters endlessly in anticipation of getting appointment on compassionate ground which is yet to be framed by the Executive Council. In addition to that, the dependants of 13 employees, who had died before the petitioner's husband, are already waiting in queue, therefore, if the claim of the petitioner is allowed for appointment on compassionate ground, then it would create more chaos among the dependants of 13 employees, hence, on this count, he prayed for dismissal of the writ petitions.

6. Besides, learned counsel for the respondents 2 and 3 submitted that self-explanatory averments made by the petitioner in the affidavit filed in support of the writ petition No.19049 of 2015 shows that her son has completed B.E. (EEE) in the year 2012 and he is working in Tata Consultancy Services, Chennai and drawing a sum of Rs.9,500/- per month. Moreover, the petitioner has also received a sum of Rs.6,77,336/- towards the service benefits of her Late husband. In such circumstances, he pleaded, the claim of the petitioner to stay in the official quarters is untenable and therefore, both the writ petitions seeking to stay in the quarters endlessly and an appointment on compassionate ground are liable to be dismissed.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. It is true that the petitioner's husband Late T.Ganesan died on 21.10.2014 while he was in service as Driver in the National Institute of Port Management. It is also seen that the NMA Rules and Regulations were silent about how long the family can be allowed to retain the quarters after the death of the employee. However, the second respondent University, on humanitarian grounds and also by considering the immediate necessity of the petitioner to stay in the official quarters, by

letter dated 18.12.2014, accepted her request to stay in the official quarters since the said employee died leaving behind the petitioner and two children. Relevant portion of the said letter is extracted hereunder:-

"As per the Madras Port Trusts Board's Residences and Quarters Rule, the family of a deceased employee is permitted to retain the quarters only for 4 months at normal rent. You are therefore permitted to retain in the quarters for 4 months from 01.11.2014 to 28.02.2015 at the normal rent of Rs.260/- per month besides electricity charges and water charges which have to be paid separately.

Please note that (i) the rent beyond the permissible period of 4 months (i.e. beyond 28.02.2015) will be Rs.5064/- per month as per the said Madras Port Trust Rules, (ii) IMU reserves the right not to permit retention beyond 4 months if deemed fit, and (iii) non-payment of rent when it is due can result in summary eviction."

A mere reading of the above letter shows that the family of a deceased employee would be permitted to retain the quarters only for 4 months at the normal rent of Rs.260/-, besides paying electricity charges and water charges and the non-payment of rent, if for any reason, would result in summary eviction. However, the petitioner, again by another letter dated 03.03.2015 requested the second respondent University to stay in the IMU quarters for 3 more months, which was again permitted by the University to continue to stay in the IMU staff quarters for another three months from 01.03.2015 to 31.05.2015. Even after the expiry of 3 months, on third time, the petitioner has sent another representation dated 03.06.2015 requesting the University to grant permission to stay in the IMU quarters for a further period of six months, which was rejected by the second respondent University by way of passing the present impugned order dated 19.06.2015. As against the impugned order, when the present writ petition No.19049 of 2015 was filed, this Court, by order dated 29.06.2015, granted an order of interim stay, therefore, by virtue of the same, the petitioner has been staying there even now.

9. At this juncture, it is the contention of the learned counsel appearing for the petitioner that by virtue of the award passed by the Central Government Industrial Tribunal in I.D.No.1 of 2014, dated 10.10.2014, the request of the petitioner seeking appointment on compassionate ground to her son may be entertained. However, the reply of the learned counsel for the respondents 2 and 3 shows that the Rules and Regulations of the erstwhile NMA do not provide for

compassionate ground appointments and no such appointments were made in the erstwhile NMA, hence, it is not possible to permit the petitioner to occupy the quarters endlessly assuming that her son would get an appointment on compassionate ground, especially when the same have to be framed by the Executive Council, apart from the another fact that the dependants of 13 other employees, who had died before the petitioner's husband, are already waiting in queue. Therefore, in my view, it is apparent that the petitioner has no legal right to continue in the possession of the official quarters until the Rules are framed therefor, hence, I find no infirmity or any illegality in the impugned order passed by the second respondent University.

10. Further, it is also seen that the petitioner, while making representations one after another, has not mentioned anything about the retention of the quarters till his son get an appointment on compassionate ground, therefore, it is not open to her to retain the quarters before her son becoming an employee of the respondent University.

11. With regard to the appointment on compassionate ground, it is seen that the dependants of 13 other employees of the second respondent University, who had died before the petitioner's husband, are already waiting in queue for employment on compassionate ground, therefore, in my view, if the request of the petitioner is directed to be considered before them, this would create more chaos among others. Hence, she cannot refuse to vacate the official quarters on the presumption that her son would get an appointment on compassionate ground, especially when the same are required for other employees who are in service.

12. Thus, for the reasons stated above, both the writ petitions filed by the petitioner stand dismissed and the order passed by this Court in M.P.No.1 of 2015 in W.P.No.19049 of 2015, dated 29.06.2015, staying the operation of the impugned order is vacated. However, it is made clear that as and when the Executive Council of the second respondent University frames the policy for compassionate ground appointments, the request of the petitioner should be also considered on merits and in accordance with law, upon consideration of the request of the dependants of 13 other employees. No Costs. Consequently, connected other miscellaneous petitions are closed.

15 .04.2016

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After pronouncement of the order, the learned counsel appearing for the petitioner sought a month's time to handover vacant possession of the quarters in question.

2. Learned counsel appearing for the respondents 2 & 3 has no serious objection for the same.

3. Therefore, on filing of an affidavit of undertaking to vacate the premises within a week's time, the petitioner is permitted to continue for a period of four weeks subject to the payment of regular rent and thereafter, she should handover vacant possession of the quarters to the respondents.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Union of India,
Ministry of Shipping,
No.1, Sansad Marg,
New Delhi - 110 001.

2.The Registrar,
Indian Maritime University,
Chennai Campus,
East Coast Road, Uthandi,
Chennai - 600 119.

3.The Deputy Registrar (Admin),
Indian Maritime University,
Chennai Campus,
East Coast Road, Uthandi,
Chennai - 600 119.

+2 cc to Mrs.Row & Reddy, Advocate sr.23750 & 23751
+1cc to Mrs.K.R.Tamilzhmani, Advocate sr.23561

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srg 04/05/2016

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