

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10767 OF 2017

Union of India and ors. ...Petitioners
Versus
Prof. Harihar Panda and anr. ...Respondents

Mr. A.M. Sethna a/w. Mr. A.R. Gole for the Petitioners/UOI.
Mr.S.P. Saxena for Respondent No.1.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 23.07.2018.

ORAL JUDGEMENT:

- 1] Heard learned counsel for the parties.
- 2] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.
- 3] The challenge in this petition is to the judgment and order dated 5.4.2017 made by the Central Administrative Tribunal (CAT), Mumbai allowing O.A. No. 300 of 2014 instituted by respondent No.1.
- 4] The CAT had issued the following operative directions at paragraph 26:

“26. Considering the fact and the Rules, I am of the view that since no specific ear-marking has been done for the Defence Officials for quarters existing within the NDA Campus, the applicant is entitled as per his entitlement to the next available vacancy in Type VI-A or equivalent quarters and may be allotted accommodation accordingly.”

5] Mr. A.M. Sethna, learned counsel for the petitioners, submits that there is already a specific ear-marking for defence officials and the observations of the CAT to the effect that there is no specific ear-marking is incorrect. He submits that houses are under construction and thereafter, the petitioners can consider allotment to respondent No.1, but not before. He submits that the impugned judgment and order is therefore, required to be set aside.

6] Mr. S.P. Saxena points out that apart from the fact that there is no specific ear-marking, as per the documents produced on record by the petitioners themselves, it is quite clear that respondent No.1 is entitled to Type VI-A accommodation. He points out that persons junior to respondent No.1 have been allotted such accommodation and therefore, the petitioners are not at all justified in denying the same to respondent No.1 or insisting that respondent No.1 wait till new constructions are completed.

He submits that there is absolutely no error in the view taken by the CAT and therefore, this petition may be dismissed.

7] The rival contentions now fall for our determination.

8] From the record, there does not appear to be serious dispute that respondent no.1 is entitled to allotment of Type VI-A quarters. The CAT has referred to the documents emanating from the petitioners themselves including the communication dated 30.7.2009 (pages 42 and 43 of the paper book) held that even civilian officers having pay grade of Rs.10,000/- as on 1.4.2009 are entitled to Type VI-A quarters. There is also material on record, as found by the CAT that even persons junior to respondent No.1, the petitioners allotted such accommodation to them.

9] Even Mr.Sethna, despite efforts, was unable to point out that any documents to show that Type VI-A quarters are ear-marked exclusively for the officers of Armed Forces. In any case, Mr. Sethna was unable to explain as to if this is the correct position how some Type VI quarters have been

allotted to civilian employees depending upon their grade pay. In such circumstances, there is really no case made out to interfere with the impugned judgment and order.

10] This petition is, therefore, liable to be dismissed and is hereby dismissed. Rule is discharged. There shall, however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)