

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.986 OF 2019**

**DISTRICT :MUMBAI**

Mr. Macchindra Dattatraya Karande, )  
Age :59 years, )  
Occ.: Retired from the post of Laboratory )  
Technician on 30.06.2019. )  
R/at. Room No.17, Type-3 Building, )  
Employees Colony of ESIS Hospital, Mumbai-18.)...**Applicant**

**Versus**

1. The State of Maharashtra, )  
Through the Commissioner, )  
State Employees Insurance Scheme, )  
Panchdeep Bhavan, 6<sup>th</sup> Floor, )  
Lower Parel, Mumbai 13. )
2. The Medical Superintendent, )  
State Employees Insurance Scheme, )  
Ganpant Jadhav Marg, Mumbai 18. )...**Respondents**

**Shri Kishor R. Jagdale, Advocate for Applicant.**

**Smt. Archana B. K., Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 27.01.2020**

**JUDGMENT**

1. The Applicant has challenged the order dated 25.01.2019, 13.03.2019, 07.06.2019, 20.09.2019 and 25.09.2019 whereby request of the Applicant to transfer his service quarter in the name of his wife is rejected and directions were issued to pay penal charges.

2. The Applicant was serving on the post of Technician in ESIS Hospital, Worli, Mumbai. He stands retired on 30.06.2019. While he was in service, service quarter in question Room No.17, Type-3, Employees Colony of ESIS Hospital, Mumai-18 was allotted to him. His wife is also serving as Sr. Clerk in Labour Department.

3. On 15.11.2018, the Applicant made an application to Medical Superintendent, State Employees Insurance Scheme, Mumbai i.e. Respondent No.2 to transfer the service quarter in the name of his wife so that he can continue the possession over service quarter. Later, the Applicant stands retired on 30.06.2019. After retirement also he continues the possession over service quarter. Therefore, by impugned communication dated 13.03.2019, 01.04.2019, 20.09.2019 and 25.09.2019 he was directed to vacate the service quarter and failing to which penal charges were sought. He was further informed that his request for transfer of quarter in the name of his wife is not accepted.

4. Shri K.R. Jagdale, learned Counsel for the Applicant submits that in view of Circular issued by the Government on 16.07.2014 as well as G.R. issued by G.A.D. government of Maharashtra dated 30.08.2010, the Applicant is entitled to continue the possession over service quarter. He further raised the ground of discrimination contending that quarters are allotted to the employees of ESIS Hospital whose services are not required in emergent situation. He thus submits that impugned communication is bad in law and prayed for directions to respondents to transfer the service quarter in the name of his wife.

5. Per contra, learned P.O. opposed the application contending that Applicant's possession over service quarter after retirement is unauthorized and service quarter cannot be allotted or transfer in the name of wife of the Applicant as she is serving in totally different department. As regards discrimination, she has pointed out that employees to whom the service quarter has been allotted are employees of State Employees Insurance Scheme Hospital. Therefore, the ground of discrimination is without any merit.

6. In view of above submissions, question posed whether the Applicant is entitled for direction to transfer the service quarter in the name of his wife.

7. Admittedly, the Applicant stands retired on 30.06.2019 and service quarter occupied him during service was required to be vacated after three months from the date of retirement. There is no denying that Applicant's wife is serving as Sr. Clerk in Labour Department and not in State Employees Insurance Scheme Hospital. Suffice to say, she is serving in totally different department i.e. in Labour Department whereas quarter allotted to the Applicant was in the capacity of State Employees Insurance Scheme of ESIS Hospital. The service quarter is situated in the campus of the hospital itself. As such, it is assigned quarter for the employees of hospital run under State Employees Insurance Scheme. This being the position, the Applicant's wife being not employee of Respondents cannot ask for allotment of the said quarter to her which is meant for only employees of State Employees Insurance Scheme Hospital.

8. Insofar as the Circular dated 16.07.2014 referred by learned Counsel for the Applicant is concerned, apparently it is applicable to common pool quarter and not assigned quarter. Apart Circular itself makes it clear that there is no vested right in favour of the member of family of Government servant to ask for transfer of the quarter in case of death or retirement of Government employee. Clause -C of the Circular is relevant which is as follows :-

“ क. उपरोक्त कुटुंबातील सदस्यास संबंधित शासकीय कर्मचारी वास्तव्य करीत असलेले निवासस्थानच त्यांना वाटप करण्यात यावे अशी मागणी करता येणार नाही. सदर सदस्यास अन्य अनुज्ञेय शासकीय निवासस्थानाचे वाटप करण्याबाबत शासनाकडून निर्णय घेतला जाईल”.

9. Suffice to say, the Circular referred to above does not create legally vested right in favour of the Applicant's wife to ask for transfer of the service quarter.

10. Now turning to G.R. dated 30.08.2010 referred by learned Counsel, it provides procedure for taking the name or another family member of the Government servant in waiting list in case of death or retirement of the concerned Government servant. G.R. is as under:-

“शासन सेवेतून सेवानिवृत्त झालेल्या/सेवेत असताना मृत्यु पावलेल्या अधिकारी/कर्मचा-यांच्या कुटुंबातील एखादा सदस्य जर शासन सेवेत असेल तर त्या सदस्याने शासकीय निवासस्थान मिळण्यासाठी विहित अर्ज सादर केल्यानंतर अशा अधिकारी/कर्मचा-यांना त्वरित प्रतिक्षायदीवर घेण्यात यावे व त्यांना विशेष बाब म्हणून प्राधान्याने अनुज्ञेय शासकीय निवासस्थानाचे वाटप करण्यात यावे.”

Thus, G.R. all that speaks for priority on waiting list. Indeed, this G.R. is also applicable to common pool quarter and not assigned quarter.

11. In case of assigned quarter, those are to be allotted only to the employees of the concerned department and such employee can continue the possession over service quarter till retirement or untimely death while in service.

12. True, it appears earlier that Director of State Employees Insurance Scheme by letter dated 06.07.2019 had recommended for allotment of the quarter to wife of the Applicant. However, material to note that Commissioner State Employees Insurance Scheme by order dated 20.09.2019 recalled the said order on the ground that quarters are to be allotted to the employees of ESIS Hospital who are on waiting list for long time.

13. The ground of discrimination raised by learned Counsel for the Applicant also holds no water. True, eleven employees' whose names are mentioned in O.A. and serving on the post of Medical Officer, Sr. Assistant, Dietician, PA to Commissioner, Psychotherapist, Clerk, Vehicle Driver, etc were allotted quarters in said building of ESIS Scheme. True, by G.R. dated 01.01.1991, the decision was taken by the Government to exempt the payment of licence fees to the employees for quarter whose services are required in emergency. It seems that the decision was taken to exempt the licence fees so that employee remains available in the campus itself for emergency service.

14. True, for some of the employees from 11 employees named in the application it cannot be said that their services are required in emergency. However, the fact remains that they are employees of Sate Employees -

Insurance Scheme and not of any other department. Therefore, allotment of quarter to employees whose services may not be strictly required in emergency cannot be termed as discrimination for not allotting quarter to Applicant's wife who is serving in different department i.e Labour department.

15. The request of the Applicant is rejected on the ground that quarters are required to be allotted to employees of State Employees Insurance Scheme who are on waiting list for long time. As such, the Applicant's wife being serving in different department cannot ask for transfer of service quarter of State Employees Insurance Scheme in her name. Those quarters are basically assigned quarter under the control of Commissioner State Employee Insurance Scheme. I, therefore, see no illegality in the impugned order.

16. It is advisable that Applicant's wife should apply for allotment of quarter from common pool quarters. Challenge to the impugned communication is thus holds no water and O.A. deserves to be dismissed.

17. Learned Counsel for the Applicant requested for grant of leave to challenge the recovery of penal rent, if ordered by the Respondents. He is at liberty to do so in accordance to law and it is kept open.

18. The totality of the aforesaid discussion leads me to sum up that Applicant is not entitled for transfer of service quarter in the name of his wife and O.A. deserves to be dismissed.

**ORDER**

Original Application is dismissed with no order as to cost.

Sd/-

**(A.P. KURHEKAR)**

**Member-J**

Place :Mumbai

Date : 27.01.2020

Dictation taken by : VSM

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