

**IN THE GAUHATI HIGH COURT**  
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

**ITANAGAR BENCH**

**WRIT APPEAL 21 (AP) OF 2011**

Smt. Hage Kari,  
D/o Late Hage Tajang,  
O/o Directorate of Information and Public Relation,  
Government of Arunachal Pradesh, Naharlagun,  
R/o Hari Village, P.O. and P.S. Ziro,  
Dist.:- Lower Subansiri, Arunachal Pradesh.

..... Appellant

Versus

1. State of Arunachal Pradesh,  
Represented by Chief Secretary,  
Government of Arunachal Pradesh,  
Itanagar.
2. The Secretary, Urban Development and Housing,  
Government of Arunachal Pradesh, Itanagar.
3. The Director of Housing,  
Government of Arunachal Pradesh, Itanagar.
4. Smt. Yasam Basar, Assistant,  
O/o Director of Printing,  
Govt. of Arunachal Pradesh, Naharlagun.

.... Respondents

**BEFORE**

THE HON'BLE MR. JUSTICE K. MERUNO

THE HON'BLE MR. JUSTICE C.R. SARMA

For the appellant :-      Mr. M. Batt.  
   Mr. H. Chada.  
   Mr. P. Sora,  
   Mr. G. Tadi.

Advocates.

For the respondents:- Ms. G. Deka,  
 Addl. Sr. Govt. Adv. For respondent 1.  
 Mr. P. Taffo, Adv. For respondents 2 and 3.  
 Mr. K. Jini, Adv. For respondent No. 4.

Date of hearing :- 28/2/2012

Date of judgment and order :- 06/03/2012

### **JUDGMENT AND ORDER**

#### **C.R.SARMA,J.**

The judgment and order dated 10/3/2011, passed by a learned Single Judge of this Court, in WP(C) 364 (AP)/2010, is in challenge in this appeal.

2. We have heard Mr. M. Batt, learned counsel appearing for the appellant, Ms. G. Deka, learned Additional Sr. Government Advocate appearing for the State respondent No. 1, Mr. P. Taffo, learned counsel appearing for the respondents 2 and 3 and Mr. K. Jini, learned counsel for the private respondent No. 4.

3. The matter involves the claim made by the appellant and the private respondent No. 4 with regard to allotment of Quarter No. 9/T-II at Press Colony. The appellant joined the department of Information and Public Relations, Government of Arunachal Pradesh as Lower Division Assistant on 27/12/2002 and applied for allotment of Government accommodation. Accordingly, on 22/12/2003, he got allotment of Quarter No. 9/T-B-B situated at Papu Hapa, Naharlagun which she continued to occupy. On 13/5/2010, she again applied for allotment of government accommodation as per the Government Notification and Guidelines.

4. In the meantime, due to death of the incumbent namely Shri B. Mazumdar, Quarter No. 9/T-II, situated at Press Colony,

Naharlagun, had fallen vacant but the family of late Mazumdar was allowed to retain the said quarter for six months.

5. The respondent authority finally decided to allot Quarter No. 9/T-II to the applicant and Quarter No. 9/T-B-B in favour of Smt. Hage Oniya to be vacated by the appellant. However, vide order dated 15/6/2010, the Director of Printing, Naharlagun allotted the Quarter No. 9/T-II aforesaid in favour of the private respondent No. 4. Subsequently, by order dated 21/6/2010, the Secretary, UD and Housing i.e. the respondent No. 2 allotted the Quarter No. 9/T-I/BB vacated by the appellant in favour of Smt. Hage Oniya, Technical Assistant, Health Department. On the same day, the respondent No. 2 allotted the Quarter No. 9/T-II in favour of the appellant.

Upon allotment of the Quarter No. 9/T-II aforesaid by the Director of Printing, Naharlagun, the private respondent No. 4 occupied the same vide the communication dated 16/6/2010. In view of the said occupation, the Director of Housing issued a notice to the respondent No. 4 requiring her to vacate the Quarter No. 9/T-II, alleging that the same was unauthorizedly occupied by her without allotment. The director of Housing, by his letter dated 14/7/2010, issued to the Director of Printing, requested to get the Quarter No. 9/T-II, allotted to private respondent No. 4, vacated on the ground that the same was allotted to the appellant. However by order, dated 9/8/2010, the respondent No. 2 cancelled the allotment order dated 21/6/2010, made in favour of the appellant, in respect of Quarter No. 9/T-II, on the ground of double allotment and on the same date, the said authority, allotted the quarter aforesaid in favour of the private respondent No. 4.

6. Aggrieved by the said allotment, made in favour of the private respondent No. 4, the appellant, as petitioner, preferred a writ petition, under Article 226 of the Constitution of India for setting aside the order, dated 9/8/2010 by which the allotment made in

favour of the appellant was cancelled and the order by which the quarter was allotted in favour of the respondent No. 4.

7. Notice being issued, the respondents appeared through their learned counsel. When the matter was taken up for admission hearing, none appeared for the petitioner, therefore, the learned Single Judge, after hearing learned counsel appearing for the respondents, dismissed the writ petition holding that there was no ground to interfere with the impugned cancellation and allotment orders. Aggrieved by the said order of dismissal, the writ petitioner, as appellant, has come up with this appeal.

8. Mr. Butt, learned counsel for the appellant has submitted that the learned Single Judge erred in law by refusing to grant the relief sought for inasmuch as the allotment in favour of the private respondent was made without following the existing Rules and Guidelines and that the order of allotment made, in favour of the appellant, was cancelled taking the erroneous view of double allotment.

9. Mr. Taffo, learned counsel appearing for respondents 2 and 3 has submitted that the allotment order, made in favour of the private respondent was lawfully made on the basis of the station seniority as well as service seniority and that the earlier allotment made in favour of the appellant has been rightly cancelled due to double allotment.

10. Supporting the impugned judgment and order and intone with the argument advanced by the learned counsel appearing for respondents 2 and 3, Mr. K. Jini, learned counsel for the private respondent No. 4, has submitted that the private respondent was senior to the appellant and that the appellant got the earlier allotment by misleading, the authority that she had joined the services in 1984 instead of 2002. Mr. Jini has also submitted that the respondent No. 4, being senior in service, the allotment, made in her favour, is in conformity with Clause 6 of the Guidelines for Allotment

of Government Houses in the Capital Complex/Census Towns of Arunachal Pradesh. The learned counsel referring to representation dated 26/7/2010 and the applications dated 30/4/2009, submitted by the respondent No. 4, who was senior to the appellant, applied for allotment of quarter much earlier than the appellant. Therefore, it is contended that the learned Single Judge committed no error by refusing to interfere with the impugned orders. Mr. Jimmi has also submitted that the quarter aforesaid was initially allotted to the private respondent by the Director of Printing, who was the controlling authority of the respondent No. 4 much earlier as such the subsequent allotment, made by the respondent No. 2, amounted to regularisation of the earlier allotment. He has also submitted that as the said quarter was allotted in favour of the respondent No. 4 as well as the appellant, the order, cancelling the subsequent allotment, made in favour of the appellant, was lawful and as such the same does not warrant any interference.

11. Adopting the argument, advanced by the learned counsel appearing for respondents 2 and 3, Mr. Deka, Additional Sr. Government Advocate, has submitted that the allotment, in favour of the private respondent No. 4, was made on the basis of seniority and that the same was in conformity with Clause 6 of the Guidelines.

12. Having heard the learned counsel for the parties and carefully perusing the materials on record, we find that there is no dispute that the private respondent No. 4 is senior, in service, than the appellant. Clause 1 of the Policy and Guidelines for Allotment of Government Houses in the Capital Complex/Census Towns of Arunachal Pradesh reads as follows:-

**"PROCEDURE FOR DETERMINATION OF ELIGIBILITY."**

*The allotment of Government quarters to Govt. servant shall be done strictly on eligibility and seniority basis under the following criteria:-*

- a) *Entitlement of quarter/Accommodation.*
- b) *Date of submission of application which will normally decide seniority of the applicant.*

*Note:- For any other reasons which are not specified herein shall be decided by the board as deemed fit.*

Clause 6 of the said Guidelines reads as follows:-

**Quarter Allotment Authority.**

*On the basis of inter se seniority the different categories of quarters shall be allotted by the Director Urban Development and Housing on the specific approval of the following authorities:-*

<b><u>Type of Accomodation</u></b>	<b><u>Approval Authority</u></b>
a) <i>Bachelor Barrack, Type-I &amp; II</i>	<i>Director (UD) on recommendation of the Board.</i>
b) <i>Type-III, IV &amp; V</i>	<i>Secretary/Commissioner (UD) on the recommendation of the Board.</i>
c) <i>Type-VI &amp; Bungalow</i>	<i>Chief Secretary.</i>

13. As per Clause I, Government quarters are to be allotted on the basis of eligibility and seniority. Clause 1(b) aforesaid provides that the date of submission of the application would be the determining factor of seniority of the applicant, whereas Clause VI provides the criteria for allotment of quarters. As per Clause 6

provides quarters are to be allotted on the basis of inter se seniority of different categories of quarters. Therefore, as the private respondent was senior to the appellant, as per Clause 6, she was entitled to get preference, over the appellant in respect of allotment of quarter. In her application, dated 14/5/2010, i.e. Annexure IV to the writ petition, the appellant stated that her date of appointment was 5/1/1984. The private respondent in her affidavit in opposition filed in the writ petition, clearly stated that the appellant had joined service on 20/7/2002 and that she had falsely mentioned 15/4/1984 as the date of joining the service. The said allegation, made by the private respondent, has not been refuted by filing any rejoinder. Therefore, it stood established that the appellant had falsely mentioned her date of joining as 15/1/1984 instead of 27/12/2002. In her said affidavit in opposition, the private respondent clearly stated that she joined the service in 1997 and there is no denial to the said statement. The learned Single Judge, while passing the impugned order, observed that the allotment was made in favour of the private respondent No. 4 as per guidelines/norms prescribed by the State Government and that no irregularity, illegality was committed. In view of Clause 6 of the Guidelines aforesaid, which prescribe the inter se seniority as the criteria for allotment of the quarter, we are of the considered opinion that the learned Single Judge committed no error by arriving at the said findings.

Quarter No. 9/T-II was initially allotted by the Director of Printing, Naharlagun, in favour of the private respondent No. 4 and she occupied the same. That the private respondent had occupied the said quarter is substantiated by the letters dated 5/7/2010 and 14/7/2010, issued by the respondent No. 2 to the private respondent No. 4 and the Director of Printing respectively. However, the said quarter was subsequently allotted in favour of the private respondent on 21/6/2010. Therefore, on the date of allotment of the quarter in favour of the appellant, the quarter was already occupied by the

private respondent No. 4 on the basis of the earlier allotment. Therefore, the said quarter was allotted to two persons and out of the said two persons, the private respondent was continuing with the possession. In view of the above position, the cancellation dated 9/8/2010, cannot be held to be unlawful and arbitrary. In view of the earlier allotment dated 15/6/2010 made by the Director of Printing, Naharlagun, as the private respondent was occupying the quarter aforesaid, the allotment order made by the respondent No. 2 vide order, dated 9/8/2010, does not suffer from irregularity or illegality requiring interference. In fact it appears to be acknowledging the allotment order dated 15/6/2010, passed by the Director of Printing, Naharlagun.

14. In the light of the above discussion, considering entire aspect of the matter, we are of the opinion that the learned Single Judge committed no error or illegality by dismissing the writ petition.

Therefore, we find no sufficient merit in this appeal, requiring interference with the impugned judgment and order. Accordingly, the appeal stands dismissed. No costs.

JUDGE

JUDGE

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