

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 05.07.2013

+ W.P.(C) 4149/2013
SURESH CHANDRA AWASTHI

..... Petitioner

Through: Mr. Vivek Vidyarthi, Adv.

versus

VIJAYA BANK

..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this Court was employed with respondent-Vijaya Bank wherefrom he retired on 28.11.2008. Bank Flat No.11-D, Kanchanjanga Apts. Sector-53, Noida was allotted to the petitioner with effect from July, 1997. A perusal of reply dated 30.10.2009 sent by the bank to the counsel for the petitioner would show that as per the extant guidelines of the bank pertaining to occupation of its quarters, an officer was eligible to occupy bank's quarters for a period of maximum five years. This letter further shows that the petitioner was advised, by the Competent Authority, vide letters dated 6.6.2005, 13.8.2005 and 9.9.2005 to vacate the said quarter. Another letter dated 25.3.2006 was sent to him directing him to vacate the quarter on or before 15.4.2006. This was followed by another letter dated 22.5.2006 directing him to vacate the said flat by 31.5.2006. He was

further informed that if the flat was not vacated by 31.5.2006, he would be charged rent @ Rs.7,500/- per month with effect from 1.5.2006.

2. Since the petitioner did not vacate the said flat even by 31.5.2006 and vacated the same on 30.1.2009, after he had retired from the bank on 30.11.2008, he was asked to pay penal rent @ Rs.7,500/- per month with effect from 1.5.2006. The bank account of the petitioner was seized by the bank and the penal rent was recovered. Vide order dated 2.6.2010, the Banking Ombudsman directed the respondent bank to pay Rs.5,000/- as compensation to the petitioner for freezing his account. However, no order with respect to the payment of penal rent was passed by the Banking Ombudsman. The petitioner preferred an appeal against the order passed by Banking Ombudsman. That appeal, however, was dismissed by the Deputy Governor of the Reserve Bank of India. In the meanwhile, the petitioner had submitted yet another representation dated 12.4.2010 to the respondent. Since that representation had not been decided, he preferred W.P(C) No.7128/2011. The said writ petition was disposed of with the following order:

“ 1. Learned counsel appearing on behalf of the respondent submits that the prayer in the instant petition is as under:-

(a) direct the respondent to decide the representation of the petitioner dated 12.04.2010 seeking reimbursement of House Rent Allowance and other unpaid bills of the petitioner for the period June 2006 to November 2008;

2. He further submits, on instructions, that the representation of the petitioner mentioned above shall be decided within six weeks from today.

3. In view of the statement made by learned counsel for the respondent at Bar, the instant petition is disposed of.

4. The petitioner, if feels aggrieved, will be at liberty to challenge the decision of the respondent.”

3. Vide order dated 3.10.2012, the representation of the petitioner was disposed of by the General Manager of the respondent – bank. He allowed the claim of the petitioner for payment of house rent allowance for the period from 1.5.2006 to 28.11.2008 but rejected his claim for payment of transportation charges in respect of household goods. Regarding freezing of the bank account of the petitioner, the General Manager of the bank held that the matter stood concluded by the order of the Banking Ombudsman and the Appellate Authority.

4. The petitioner submitted yet another representation dated 16.2.2013 to the respondent, for redressal of his grievance arising out of imposition of penal rent upon him. The said representation was rejected on 26.2.2013 on the ground that the issue raised by the petitioner had already been addressed in W.P(C) No.7128/2011 and the bank had already complied with direction given by the Court in the said case. Being aggrieved from rejection of his representation, the petitioner has again approached this Court seeking a writ or direction to reimburse the penal rent recovered from him along with ancillary benefits.

5. It would thus be seen that under the guidelines of the bank, the petitioner could have retained the accommodation of the bank for a maximum period of five years from the date it was provided to the petitioner. Therefore, he was required to vacate the accommodation way back in the year 2002. He, however, failed to vacate the accommodation within the time for which it was allotted to him by the bank. A number of communications were sent to him by the bank requiring him to vacate the said accommodation. Since he failed to do so, he was informed vide letter dated 22.5.2006 that if he did not vacate the accommodation by 31.5.2006, he would be required to pay penal rent @ Rs.7,500/- per month with effect from 1.5.2006. Though occupation of the petitioner in respect of the flat allotted to him

became unauthorized sometime in the year 2002, the bank has recovered penal rent from him only with effect from 1.5.2006. Since, the policy of the bank permitted the petitioner to occupy the said accommodation only for a period of five years, no exception can be taken to recovery of penal rent from him with effect from 1.5.2006. If the policy of the bank did not require him to vacate the accommodation on expiry of five years from the date it was provided to him, the petitioner ought to have challenged the communication dated 6.6.2005, 13.8.2005, 9.9.2005 and 25.3.2006. He, however, did not do so. Even when the bank sent letter dated 22.5.2005 informing him that if he did not vacate the accommodation by 31.5.2006, he would be required to pay penal rent @ Rs.7,500/- with effect from 1.5.2006, he did not come to the Court to challenge the communication sent to him by the bank. No relief with respect to charging of penal rent was granted to the petitioner in W.P(C) No.7128/2011 since the representation made by him was confined to reimbursement of house rent allowance and other unpaid bills, as noted in the order dated 23.8.2011 passed in W.P(C) No.7128/2011.

6. In these circumstances, no ground for directing respondent to refund the penal rent recovered from the petitioner is made out. The petition is devoid of any merit and is hereby dismissed. There shall be no orders as to costs.

V.K. JAIN, J

JULY 05, 2013/rd