

GAHC010122662012



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5357/2012

UTPAL HAZARIKA
FORCE NO. 941192652, CT/GD, S/O BALORAM HAZARIKA, R/O QUARTER
NO. 73,, TYPE-I, SPECIAL GROUP CENTER, CENTRAL RESERVE POLICE
FORCE, GUWAHATI, KAMRUP, ASSAM-781023

VERSUS

THE UNION OF INDIA and ORS
REP. BY THE SECY, MINISTRY OF HOME AFFAIRS, NEW DELHI-110003

2:THE DIRECTOR GENERAL

CENTRAL RESERVE POLICE FORCE
CENTRAL GOVT. OFFICE COMPLEX
LODHI ROAD
NEW DELHI-110001

3:THE SPECIAL DIRECTOR GENERAL
NORTH EAST ZONE
CENTRAL RESERVE POLICE FORCE
AMEIGOG
GUWAHATI
ASSAM
PIN-781023

4:THE DY. INSPECTOR GENERAL OF POLICE

GROUP CENTER
CENTRAL RESERVE POLICE FORCE
GUWAHATI
ASSAM-78102

Advocate for the Petitioner : MR.A KUMAR

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

12.12.2023

Heard Mr. R. Mazumdar, learned counsel for the petitioner. Also heard Ms. B. Sarma, learned Central Government Counsel (CGC) appearing for the respondents.

2. The writ petitioner herein is serving as a Constable (General Duty) under the Central Reserve Police Force (CRPF) and is presently posted at Agartala in the State of Tripura. Being aggrieved by the order dated 06.09.2012 issued by the Deputy Inspector General of Police, Group Center, CRPF, Guwahati directing him to vacate the quarter No.73, Type-I under his occupation, failing which coercive action would be initiated, the petitioner had approached this Court by filing the instant writ petition. By order dated 15.11.2012, this Court had passed an interim order permitting the petitioner to retain the quarter. On the strength of the order dated 15.11.2012 the petitioner, through his family members, is continuing to occupy the quarter No.73, Type-I, Special which was allotted to him in the Group Center at Guwahati.

3. It appears that the writ petitioner, after joining the CRPF, was posted at Shillong in the year 2000 and since then, he has been posted in different places within the North Eastern Region including Guwahati, Shillong and Agartala. In between, the petitioner was also posted in the Jammu & Kashmir region.

4. As per Rule 25 of the Central Reserve Police Force Family

Accommodation Rules, 2008 (as amended) there is no maximum period of retention of Government quarter of CRPF personnel posted at the North Eastern Region and Jammu & Kashmir as long as they are posted in the said regions. Notwithstanding the same, by issuing the impugned order dated 06.09.2012 the petitioner had been asked to vacate the quarter although his posting continued to be within the designated zone.

5. Mr. Mazumdar, learned counsel for the petitioner submits that in view of his posting at Agartala, the petitioner would not be averse to submitting an application for allotment of a quarter at Agartala if the same becomes necessary and convenient for his family. However, since the petitioner is presently contemplating to go on voluntary retirement and submit a proper application on that behalf shortly, such a recourse may not be warranted immediately. Mr. Mazumdar, however, submits that his client is asserting his rights under the relevant provisions of the Rules of 2008 which permits him to occupy the quarter at Guwahati and therefore, until and unless the Rules are amended, the petitioner cannot be forcefully evicted from the quarter under his occupation.

6. Ms. B. Sarma, learned Central Government Counsel (CGC), on the other hand, has invited the attention of this Court to the 'SOP' for allotment of Government accommodation to the Central Government servants which was circulated by the Office Memorandum dated 02.09.2022 issued by the Ministry of Home Affairs to contend that after the issuance of the 'SOP' it would now be incumbent for the petitioner to apply for a Government quarter at his present place of posting at Agartala. Since quarters are available at Agartala, such an application, if made by the petitioner, will certainly be considered by the

authorities. The learned CGC has, however, fairly submitted that the SOP does not amend the provisions of Rule 25 of the Rules of 2008.

7. After going through the pleadings of the parties and upon hearing the arguments advanced by the learned counsel for both the sides, I find that the crux of the matter would lie in interpreting Rule 25 of the Rules of 2008 (as amended) which is reproduced herein below for ready reference :-

“29. The maximum retention period of quarter is as 05 years with the provision that even after posting to attached Bns of the GC, the retention period will not be extended beyond 05 years in any case. The periodicity of 05 years retention of CRPF accommodation should not be made applicable to personnel posted to NE region and J & K exclusively for the period they remain posted in NE region and J & K as per GOI orders. However, 5 years of occupation period will be counted from the date of original allotment of such accommodation on return from NE region/J & K.”

8. As per the above provision, there is a maximum retention period of 5 years. However, subsequently, Rule 25 of the Rules of 2008 was amended whereby, the maximum retention period of 5 years for employees posted in J & K/NE region, for the CRPF family accommodation was done away with. Consequently, the position under the Rules at present is that employees posted in North Eastern region or Jammu & Kashmir would be entitled to retain family accommodation in the Group Center or any other place where their quarter was allotted, during the entire period of their stay in the NE region or in J & K as the case may be. If that be so, I find force in the submission of Mr. Mazumdar that as long as the petitioner continue to serve in NE region or is posted in Jammu & Kashmir region, he cannot be forcefully evicted from the quarter

No.73, Type-I, Special earlier allotted to him in the Group Center at Guwahati.

9. It is no doubt correct that by issuing an SOP by the Ministry, a new procedure has been prescribed for allotment of quarters. However, the SOP cannot override the provisions of statutory Rules framed by the authorities and therefore, the same cannot in any way take away the right which has vested on the writ petitioner, under Rule 25 of the Rules of 2008.

10. In so far as the submission of Ms. Sarma, learned CGC that the petitioner can apply for suitable residential accommodation at Agartala is concerned, in view of the submission made by Mr. Mazumdar, as noted above, it is made clear that this order would not come in the way of the petitioner in making appropriate application for allotment of suitable accommodation at Agartala or at any other place as he may be entitled to under the Rules in lieu of his quarter at Guwahati, if so advised. However, that cannot be a ground for the authorities to forcefully evict the petitioner from the quarter No.73, Type-I, Special earlier allotted to him in the Group Center at Guwahati for the reasons stated herein above.

11. Consequently, this writ petition succeeds and is hereby allowed. The impugned order dated 06.09.2012 is hereby set aside.

Parties to bear their own cost.

JUDGE

Comparing Assistant