

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13417 of 2013
Date of decision : 03.07.2015

Kanwal Singh

..... Petitioner

versus

State of Haryana and Ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. N.S. Bhinder, Advocate for the petitioner.
Ms. Shruti Goyal, AAG, Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

By way of filing the present writ petition under Article 226 of the Constitution, the petitioner, who has retired as Deputy Superintendent from the office of Director General of Police, Haryana, Panchkula on 28.2.2013, prays for issuance of directions to the respondents to extend his stay in Government House No.1381, Sector 39-B, Chandigarh upto 31.12.2013 and charge the rentals/license fee of the said house on the basis of previous policy.

The claim of the petitioner is that he is liable to pay penal rent of license fee @ 50 times for the period during which he retained the said Government accommodation beyond the permitted period and not at the

enhanced rate i.e @ 300 times. Petitioner is stated to have retired on 28.2.2013 and as per the House Allotment Policy/Instructions, he was entitled to retain the Government House till 30.6.2013. It is claimed that due to the serious sickness of his son, the petitioner did not vacate the premises. Since due to aforesaid reason, the petitioner would not be in a position to vacate the premises, he filed the instant writ petition claiming that he should be permitted to retain the premises beyond the prescribed period i.e 30.6.2013 on payment of license fee @ 50 times as per the old Policy.

On 18.12.2013, following order was passed by this Court:

“ C.M.No.17272 of 2013

Reply has not been filed. For the reasons recorded, this application is allowed and documents Annexures P-14 to P-17 are taken on record.

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Counsel for the petitioner states that the petitioner has vacated the government quarter in question on 30.8.2013 but the respondents are not taking possession of the same due to the pendency of this writ petition and that a direction may be issued to the respondents to take the possession of the same.

Counsel for the respondents states that the respondents would have no objection in taking possession of the government quarter and issuing a Vacation Certificate in respect thereof.

Adjourned to 10.3.2014.”

As per the respondents, the possession of the house was taken on 27.1.2013 and the petitioner has to pay the enhanced license fee upto the said date.

As regards the claim for restricting the payment of licence fee

@ 50 times, the only argument raised on behalf of the petitioner is that when the house was allotted to the petitioner, old Policy was in force. I am afraid this argument would not hold water. Once the Policy came into effect, it would be applicable and merely because the house was allotted to the petitioner earlier, it would not confer any indefeasible right to him to claim that only that Policy of payment can only be applicable, which was prevalent when the house was allotted to him.

Learned counsel by referring to a Division Bench judgment dated 17.12.2012 (P.11) of this Court has contended that in that case, the petitioners were given period of two months to vacate the house on payment of penal rent @ 50 times.

A perusal of Annexure P.11 reveals following things; firstly the Division Bench has upheld the Policy whereby the lessee has to pay licence fee @ 300 times if he overstays the permitted period; second is that the relief granted to the petitioner in that case would not be treated as precedent. In these circumstances, the case cited by the learned counsel for the petitioner would not be applicable.

Faced with that situation, learned counsel for the petitioner has argued that in any case, the petitioner had shifted from the said house on 30.8.2013 as was clear from the order quoted above and merely because the respondents obdurately refused to take the possession, the petitioner cannot be saddled with the huge liability after 31.8.2013. I find weight in this argument. Learned Assistant Advocate General, however, counters by arguing that the respondents could not take over the possession of the house till the petitioner had cleared the dues. In my opinion, there is no bar for the respondents in taking over possession of the house and even if the petitioner

had not paid the dues, the same could have been recovered from his retiral benefits.

Resultantly, even while repudiating the challenge to the imposition of user charges @ 300 times for licence fee, it is directed that the petitioner would be liable to pay the enhanced licence fee only for the period from 01.07.2013 till 31.08.2013.

With the aforesaid observations, petition stands disposed of.

July 03, 2015
manoj

(AJAY TEWARI)
JUDGE