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

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Date of Decision : February 25, 2015

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W.P.(C) 1824/2015

NERAJ KUMAR SINGH

..... Petitioner

Represented by: Ms.Jyoti Singh, Sr.Advocate
instructed by Ms.Tinu Bajwa,
Mr.Amandeep Joshi and Mr.Sameer
Sharma, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Represented by: Mr.Ajay Digpaul, CGSC with
Mr.Kunal Punj, Advocate for UOI

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. Learned counsel appears for the respondents since advance copy of the writ petition was served and prays for disposal of the writ petition by placing reliance upon the latest policy decision dated January 19, 2015 issued by the Director General, CRPF on the subject of allotment and occupation of family accommodation at Sector-16-B, Pocket-2, Dwarka, New Delhi.

2. The petitioner is undoubtedly posted in the State of Jammu & Kashmir.

3. In the year 2006 a family accommodation was allotted to the petitioner at the Jyoti Kunj Complex at Dwarka, Sector 16-B, Pocket-2 since he was posted at Delhi. Being posted to the State of Jammu & Kashmir, the

petitioner has been declared to be an unauthorized occupant of the family accommodation allotted to him at Dwarka and vide impugned order dated October 14, 2014 recovery of rent at penal rate has been directed against him.

4. It is not in dispute that family accommodation is provided to the force personnel of CRPF as per the CRPF Family Accommodation Rules, 2008. Under the Rules, vide Rule 25, a family accommodation allotted can be retained for the prescribed period of five years. But the same i.e. five year period is not to be applied to the force personnel posted in the North Eastern region of the country and the State of Jammu & Kashmir.

5. It is apparent that the policy has the underlying reasoning; of a force personnel being posted at a place for five years. For it would make a non-sense of the policy to post a person for more than five years at a place but restrict family accommodation being provided for only five years.

6. It appears that there was some problem in understanding the Rules, resulting in a circular being issued on April 28, 2009. It was clarified that CRPF personnel posted in the North Eastern region as well as in the State of Jammu & Kashmir would be allowed to retain the family quarter till their actual posting lasts in said areas. Meaning thereby, as per the family accommodation Rules read with the policy guidelines dated July 28, 2009, a force personnel posted in the State of Jammu & Kashmir or the North Eastern region was entitled to retain the family quarter till duration of posting in the State of Jammu & Kashmir or the North Eastern region.

7. On December 30, 2013, general guidelines were issued concerning family accommodation allotted to CRPF force personnel and as per para 7 thereof it was once again made clear that the period of allotment would be till posting lasts in the State of Jammu & Kashmir or the North Eastern

region. However, it was indicated therein that separate instructions would be issued pertaining to the flats in Dwarka.

8. The separate instructions regarding allotment and right to retain the family accommodation in Dwarka has been issued on January 19, 2015, and this would be sufficient reason to quash the impugned order dated October 14, 2014 charging penal rent as also the eviction notice dated August 27, 2014 for the reason as of said dates the general pool accommodation Rules and the guidelines issued thereunder would govern the entitlement of the petitioner.

9. Concededly, being posted State of Jammu & Kashmir, the petitioner would be entitled to retain family accommodation allotted to him.

10. But we need to speak something more.

11. The policy dated January 19, 2015 requires that the maximum period of allotment would be four years inclusive of extension.

12. Now, there has to be a special reason to make separate guidelines for the family accommodation at Dwarka for the reason one cannot think of only a group of flats being subjected to a separate allotment and retention policy and the remainder under a general policy.

13. From the facts noted above it would be apparent that for family accommodation other than in Dwarka, a force personnel posted in the State of Jammu & Kashmir or the North Eastern region of the country would be entitled to retain the residential accommodation allotted in any city in India including Delhi before, till the officer completes the posting in the State of Jammu & Kashmir or the North Eastern region.

14. Though not expressly stated in the policy guidelines dated January 19, 2015, for the flats at Dwarka, a perusal thereof would evince that in Dwarka, CRPF has 816 quarters out of which 215 have specifically been earmarked

for the 88th Mahila Battalion and 17 for the 135th Mahila Battalion and the 213th Mahila Battalion. 10 have been left in the discretionary quota of the Direction General for allotment on compassionate ground, 19 have been distributed for various prescribed purposes. 555 quarters have been reserved for allotment to CRPF officers on 'first-cum-first-serve' basis.

15. Though not stated in the policy, learned counsel for the respondents states that fixing maximum four years' duration period for retention of flats in Dwarka is that the Dwarka area in Delhi is isolated from the general city of Delhi and transport is made available to the officers to whom flats are allotted there. If a flat at Dwarka is retained by an officer not stationed at Delhi and he is allowed to retain the same for the benefit of his family, another force personnel would be required to be given a family accommodation elsewhere and this would create transport problem.

16. If this be so, the only way forward is to first allot a flat to a CRPF force personnel in a complex outside Dwarka where his family could shift till when the force personnel serves in the State of Jammu & Kashmir or the North Eastern region of the country and thereupon call upon the officer to vacate the quarter allotted in Dwarka.

17. To our mind, it would be arbitrary to let a force personnel retain the family accommodation allotted if the same is not in Dwarka area of Delhi till the officer serves in the State of Jammu & Kashmir or the North Eastern region but to require the officer to vacate the accommodation if family accommodation allotted in Dwarka.

18. The fortuitous circumstances of the place where family accommodation is allotted coupled with the fortuitous circumstance of being attached at a particular office in Delhi resulting in a curtailment of the entitlement of the officer under the family accommodation Rules and

general guidelines would be arbitrary.

19. We would commend to CRPF officers to issue a clarification removing the anomaly afore-noted. The best clarification would be that if a force personnel has been allotted residential accommodation in Dwarka when the force personnel was posted at Delhi, he would be entitled to retain the accommodation in Dwarka for his family on being posted in the State of Jammu & Kashmir or the North Eastern region of the country till alternative accommodation is made available for the family in Delhi. Once the alternative accommodation is made available the entitlement to retain the accommodation in Dwarka would automatically lapse.

20. Impugned order dated August 27, 2014 and October 14, 2014 are quashed.

21. It is declared that the petitioner would be entitled to retain the family accommodation at Dwarka at the normal license fee till he is serving in the State of Jammu & Kashmir, which period could be curtailed upon the petitioner being allotted a general pool accommodation by CRPF in any part of the city of Delhi.

22. No costs.

CM No.3263/2015

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

FEBRUARY 25, 2015

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