

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 11803 of 2014 (O&M)

Date of decision : 29.1.2016

Ranvir Singh

.. Petitioner

versus

The Union Territory, Chandigarh and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. I. D. Singla, Advocate, for the petitioner.

Mr. IPS Doabia and Ms. Manpreet Kaur, Advocates,
for the respondents.

Rajesh Bindal, J.

1. The petitioner, who was working in the Department of Archaeology & Museums, Haryana, Panchkula, (now retired), has filed the present petition challenging the order dated 14.5.2014 (Annexure P-5), vide which penal rent was imposed on him and order dated 27.5.2014 (Annexure P-6) vide which allotment of government house in his favour, was cancelled.

2. Learned counsel for the petitioner submitted that while posted at Panchkula in the Department of Archaeology & Museums, Haryana, the petitioner was allotted House No. 2202-A, Sector-27, Chandigarh. Vide order dated 30.10.2009 (Annexure P-2), the petitioner was transferred as Registering Officer, Department of Archaeology & Museums, Haryana, Hisar with effect from 1.11.2009. However, his headquarter was temporarily fixed for four months in the Directorate of Archaeology & Museums, Haryana, Panchkula. He was to look after the work of Registering Office, Hisar. The aforesaid arrangement of the petitioner being allowed to work at Panchkula continued till further orders, vide order dated 29.7.2010. The petitioner retired on attaining the age of superannuation on 31.8.2013. Thereafter, he was re-employed by the department for a period of one year

from 1.9.2013 till 31.8.2014, on his last drawn salary (minus pension), as a result, the petitioner continued in possession of the accommodation in question at Chandigarh. He vacated the same immediately after term of re-employment expired.

3. While referring to an order passed in CWP No. 9013 of 2011 Naubar Chand vs The Union Territory, Chandigarh and another decided on 14.5.2012, learned counsel for the petitioner submitted that once the substantive place of posting of the petitioner was at Chandigarh, the allotment of government house to him could not be cancelled and as a consequence, demand of penal rent could not be raised.

4. On the other hand, learned counsel for the respondents while referring to Rule 2(h)(i) of the Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996 (for short, 'the Rules'), submitted that the petitioner was not an employee working in an eligible office to be eligible for allotment of government accommodation at Chandigarh. He submitted that a perusal of the order dated 30.10.2009 shows that the petitioner, who was working as Numismatic Officer in the Department of Archaeology & Museums, Haryana, Panchkula, was transferred as Registering Officer, Department of Archaeology & Museums, Haryana, Hisar, with effect from 1.11.2009. However, his headquarter was temporarily fixed for a period of four months in the Directorate of Archaeology & Museums, Haryana, Panchkula. He further submitted that as it was specifically mentioned in the order of transfer that the petitioner will draw his salary from the Registering office, Department of Archaeology & Museums, Haryana, Hisar. Meaning thereby his substantive place of posting was at Hisar and not Panchkula, hence, he was not entitled to allotment of government house or to be allowed to continue in possession thereof after his retirement beyond the permissible period.

5. It was further submitted that after his retirement on attaining the age of superannuation on 31.8.2013, the petitioner was re-employed for a period of one year. To be eligible for allotment of a government house, an employee engaged on contractual basis has to be employed for a period of not less than three years. As in the case in hand, the engagement of the petitioner after retirement was merely for a period of one year, he was not

eligible for accommodation at Chandigarh. Hence, there is no illegality in cancellation of the allotment or demand of penal rent from the petitioner.

6. Heard learned counsel for the parties and perused the paper book.

7. The case in hand is a classical example of favoritism, which otherwise is also seen in many cases where the government employee is either given charge at two places including one in an important city just with a view to see that he can retain the government accommodation at that place. In the present case as well though the petitioner was transferred from Panchkula to Hisar vide order dated 30.10.2009 as Registering Officer, however, his headquarter was kept for a period of four months at Panchkula, which was later on extended till further orders and in fact, continued till he retired on attaining the age of superannuation on 31.8.2013. The order of his transfer, which is extracted below, provides that the petitioner will draw his salary from the office of Registering Office at Hisar:-

“The Governor of Haryana is pleased to transfer and post Sh. Ranvir Singh, Numismatic Officer, Department of Arch & Museums, Haryana, Panchkula as Registering Officer. Department of Archaeology & Museums, Haryana, Hisar w.e.f. 1.11.2009. However, the head quarter of Sh. Ranvir Singh, Registering Officer is hereby temporarily fixed for four months in the Directorate of Archaeology and Museums, Haryana, Panchkula.

He however, will draw his pay and allowances etc. from the office of Registering Office, Department of Archaeology & Museums, Haryana, Hisar. He will also look after the work of Registering Officer, Hisar.”

8. That means, there was no substantive post at Panchkula against which the salary of the petitioner could be drawn.

9. It is not a case where the petitioner had been given additional charge of a post at a different place, rather it was a case of clear cut transfer. The wisdom of the government in transferring the petitioner from Panchkula to Hisar as a Registering Officer and then permitting him to work as Registering Officer, Hisar, the post on which he was transferred from

Panchkula, does not make any sense. He seems to be a favourite, which is established from the fact that even after attaining the age of superannuation on 31.8.2013, he was allowed to work in the department without there being any order, as the order for re-employment of the petitioner from 1.9.2013 to 31.8.2014 was passed by the Government on 18.12.2013, nearly four months after the petitioner had retired. It is anybody's guess, under which authority, the petitioner may have been allowed to work in the office without there being any order of any authority of his re-employment. Relevant Rule 2(h) and 2(i) of the Rules are extracted below:-

(h) "Eligible Employee" means an employee of the eligible office of the Government of Punjab, Government of Haryana, Chandigarh Administration or of Punjab and Haryana High Court working on regular basis in an eligible office or on foreign service having posting with substantive charge at Chandigarh, Panchkula or Mohali as long as he retains lien on a post in an eligible office, Mayor of the Municipal Corporation as also the employees of the Chandigarh Administration transferred to the Municipal Corporation, Chandigarh, Chairman/President/Member of various Commissions/Boards/Consumer Forums etc. set up by the States of Punjab and Haryana, Chandigarh Administration, who are employed on full time basis and are getting their salary from the consolidated Fund, and if employed on contractual basis their contractual period is not less than three years".

(i) "Eligible Office" means an office of the Governments of Punjab, Haryana, Chandigarh Administration and Punjab and Haryana High Court located at Chandigarh, Panchkula or Mohali, the staff of which has been declared by the Chandigarh Administration to be eligible for accommodation under these rules, Office of the Municipal Corporation, Chandigarh in

respect of the employees of the Chandigarh Administration transferred to Municipal Corporation, Chandigarh, Chairman/President/Member of various Commissions/Boards/Consumer Forums etc. set up by the States of Punjab and Haryana, Chandigarh Administration, who are employed on full time basis and are getting their salary from the consolidated Fund, and if employed on contractual basis their contractual period is not less than three years” and Chief Ministers/Ministers/Deputy Ministers/ Leaders of opposition of Punjab and Haryana Government for houses in the Chief Ministers pool only.

Provided that the employees of those departments of the Union Territory Administration, who have their own departmental pool, shall not entitled for the allotment of houses from Chandigarh Administration Pool.

Provided that officers/officials holding additional charge of a post at Chandigarh and having substantive charge outside Chandigarh, Mohali or Panchkula will not fall within the expression “Eligible Office”.”

10. Rule 2(h) of the Rules provides that an employee is eligible for consideration for allotment of a government accommodation, if he is working on regular post in an eligible office having substantive charge at Chandigarh, Mohali or Panchkula. A contractual employee is eligible if contractual period is not less than three years. 'Eligible Office' has been defined in Rule 2(i) to mean the office of the Governments of Punjab, Haryana and Chandigarh Administration and Punjab and Haryana High Court located at Chandigarh, Panchkula or Mohali, except the District Level Offices or those offices which are not State Level Offices at Panchkula or Mohali.

11. If the case of the petitioner is considered in the light of eligibility conditions laid down in the aforesaid Rules, it is evident that the petitioner was not working on regular basis in an eligible office at

Panchkula as he was substantively posted as Registering Officer, Department of Archaeology & Museums, Haryana, Hisar, which being a District Office of the State will not fall within the definition of an 'Eligible Office' to be entitled to allotment of government accommodation at Chandigarh. Even after retirement, the re-employment of the petitioner was merely for a period of one year, hence, in that category also, the petitioner was not entitled for allotment of government accommodation at Chandigarh.

12. The order passed by this Court in Naubar Chand's case (supra) is distinguishable as the petitioner therein was never transferred from Mohali to Patiala. He was required to work at Mohali, whereas in the case in hand, the facts are that the petitioner was substantively transferred to Hisar with no duty assigned at Panchkula.

13. In view of my aforesaid discussions, the inescapable conclusion is that after the transfer of the petitioner from Panchkula to Hisar vide order dated 30.10.2009, he was not entitled to allotment of government accommodation at Chandigarh in terms of the aforesaid Rules. Hence, he could not continue in possession of the accommodation already allotted to him while posted at Panchkula. In the absence of any right to the government accommodation after the permissible period, after transfer of the petitioner from Panchkula to Hisar, the petitioner was rightly made liable to pay license fee and the penal rent for the period he remained in unauthorised possession of the government accommodation.

14. For the reasons mentioned above, I do not find any merit in the present petition. The same is accordingly dismissed.

29.1.2016
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)