

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 21123 of 2015
Date of Decision: 15.3.2016.**

Suresh Kumar Kaushik

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S.Mamli, Advocate
for the petitioner.

Mr. Vivek Singla, Advocate
for the respondents.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing the order dated 11.9.2015 (Annexure P-5) whereby Type-III quarter had been allotted to him instead of Type-IV.

Learned counsel for the petitioner has submitted that the petitioner was working with the respondents as a Librarian with effect from 20.3.1990. Petitioner remained posted at Chandigarh from July 2012 to April 2015 and was transferred to 181 Battalion Turial, Mizoram. As per policy Annexure P-1, petitioner was entitled to retain a quarter which would be one type below his entitlement. As per the entitlement, petitioner was liable to retain Type-IV quarter whereas he had been allotted Type-III quarter vide order Annexure P-5.

Learned counsel for the respondents, on the other hand,

has opposed the petition and has submitted that Type-IV quarter was not available and due to this reason, Type-III quarter had been allotted to the petitioner.

Para 4 of the written statement reads as under:-

“That in reply to the contents of para 4 of the writ petition, it is submitted that petitioner has never been transferred to Chandigarh as he stated, which is totally incorrect. In fact, he was posted to 200 Bn BSF, which has its Bn HQ located at Lakhnaur, Mohali (Punjab) and deployed at Indo-Pak international Border under Jammu Ftr. As far as accommodation in Bn HQ 200 Bn Lakhnaur, Mohali (Pb) concerned, there is an acute shortage of living accommodation at BSF Campus Lakhnaur, Mohali (Pb) as HQ Spl DG (WC) which is also located in same locality has also taken over/retained the major portion of accommodation for his own troops. Even Spl DG BSF who is entitled for higher type of accommodation, is accommodated in Type-V Qtr much lower than his entitlement which is meant for Unit Commandant. Similarly, Commandant of the Bn is putting up in Type-IV Qtr whereas he is entitled for Type-V Qtr. Similarly, Type-III Qtrs are occupied by Dy. Commandants who are also eligible for type-IV Qtrs. In the past, petitioner too had occupied Type-III accommodation w.e.f. 2009 to 2013, when he was posted in 07, 85 and 200 Bns of BSF.

In the instance case, there are total 10 Nos of Type-IV Qtrs available in the Lakhnaur campus of BSF out of

which 60% accommodation i.e. 06 Qtrs are already taken over/retained by HQ Spl DG (WC) BSF and remaining 04 Qtrs are available with 200 Bn BSF to accommodate its 12 officers i.e. 01 Commandant, 04 Dy. Commandants and 07 Asstt. Commandants. Out of these 04 Type-IV Qtrs, one Qtr is retained by Sh. S.K.Kaushik (The Petitioner) by virtue of ex-parte stay order dated 05.10.2015, who is now posted to 181 Bn BSF, Tural, Mizoram. 02 Dy. Commandants and 05 Asstt. Commandants of 200 Bn BSF are in waiting list for authorised accommodation i.e. Type-IV as all these officers are also living in Quarter which is one grade lower than their entitlement. Hence claim of Sh. S.K.Kaushik, Dy. Commandant for Type-IV Qtr is not justified. Unit has the responsibility to give priority/preference to newly posted officers of the Unit, rather than Officer serving in another Unit. The newly posted officers of 200 Bn BSF have every right to keep their family near Chandigarh in Mohali in proper accommodation. Moreover, Sh. S.K.Kaushik, Dy. Commandant used to live in same campus in Type-III Qtr No. 09 since April 2009 to 2013. A list of newly posted officer of 200 Bn BSF is attached as Annexure R-5.

Hence allotment of Type-III Qtr to the petitioner is highly justified and in consonance with the right/entitlement of other posted officers of the Bn as well as relevant policies and Sh. S.K.Kaushik, Dy.

Commandant can retain and look after his family very well by residing in Type-III Qtr.”

In view of the reply reproduced above, no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

**(SABINA)
JUDGE**

March 15, 2016
Gurpreet