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

% *Date of Decision : July 19, 2016*

+ **W.P.(C) 9280/2015**

N.M. MARENMAI Petitioner

Represented by: Mr.Praeep Dahiya, Advocate

versus

UNION OF INDIA & ORS Respondents

Represented by: Mr.Jaswinder Singh, Advocate with
Ms.Shriya Sinha, Advocate
Mr.S.S.Sejwal, Law Officer, CRPF

W.P.(C) 10689/2015

CHAMAN LAL Petitioner

Represented by: Mr.Praeep Dahiya, Advocate

versus

UNION OF INDIA & ORS Respondents

Represented by: Mr.Ajay Digpaul, CGSC with
Ms.Madhuri Dhingra, Advocate for
R-1 to R-3
Mr.S.S.Sejwal, Law Officer, CRPF

W.P.(C) 9648/2015

MAHESH KUMAR MEENA Petitioner

Represented by: Mr.Praeep Dahiya, Advocate

versus

UNION OF INDIA & ORS Respondents

Represented by: Mr.Sandeep Mahapatra, Advocate
with Mr.Jiwan Pal Singh and Mr
Kayesh, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. Since a common question of law, which as a matter of fact has already been decided in favour of the petitioners and against the respondents, and its application comes up for consideration in the three above captioned writ petitions, all of them are being disposed of by a common order. All the petitioners are members of the Central Reserved Police Force.

2. Petitioner N.M.Marenmai was allotted accommodation in Jyoti Kunj Complex Dwarka belonging to CRPF, but maintained for administrative reasons a separate residential complex and not merged with its general pool accommodation available in Delhi. The allotment was made to him in his capacity as an Assistant Commandant because he was posted with the 117th Bn. at Srinagar and no residential accommodation was provided to him there. The policy of CRPF is that its officers posted in the State of Jammu and Kashmir, North Eastern States and left wing extremist areas can either retain the accommodation allotted to them at family stations or are allotted accommodation for residents of their family if none is allotted when they are posted in these areas. Serving with the 117th Bn. at Srinagar till January, 2012 N.M.Marenmai was posted to the 199th Bn. Bijapur Chattisgarh, a left wing extremist area where he continues to serve. He has been served with an eviction notice dated April 15, 2015 and an order imposing penal rent on June 09, 2015. He was allotted a residential accommodation in Jyoti Kunj Complex when he was posted with the 117th Bn. stationed at Srinagar and as noted above currently he is serving with the 199th Bn. in Bijapur

Chattisgarh. Petitioner Chaman Lal is an Assistant Commandant and on February 09, 2009, while posted with the 163rd Bn. stationed in Jammu and Kashmir was allotted a family accommodation in Jyoti Kunj Complex. In June, 2010 he was posted with the 163rd Bn. stationed at Bantala Jammu and in July, 2013 he was posted with the 96th Bn. stationed at Anantnag in the State of Jammu and Kashmir where he continues to serve till date. He has been issued an eviction notice on June 09, 2015 and vide order dated August 10, 2015 has been imposed penal rent. Mahesh Kumar Meena is an Assistant Commandant and a residential accommodation was allotted to him in Jyoti Kunj Complex on January 21, 2009 when he was posted in Manipur. Posted subsequently with the 27th Bn. having its group centre in Imphal he was deputed for duties in Delhi where he continues to work till date. He has been served with an eviction order on April 15, 2015 and on June 09, 2015 has been served with an order charging penal rent.

3. It is not in dispute that family accommodation is provided to force personnel for CRPF as per the CRPF Family Accommodation Rules, 2008. Under the Rules, vide Rule 25, family accommodation is allotted for a period of five years. Regarding allotment being made for five years it is apparent that the inherent understanding would be that the force personnel would be kept at the place of posting for five years and upon transfer to another place would be provided with a residential accommodation and if none was available would be paid HRA.

4. There was some problem in understanding the Rules and thus a circular was issued on April 28, 2009 clarifying that personnel posting in the North Eastern region, State of Jammu and Kashmir and left wing extremist areas would be allowed to retain the family accommodation till their posting lasts in said areas. Meaning thereby, as per the Family Accommodation

Rules read with the policy guidelines a force personnel in the State of Jammu & Kashmir, North Eastern region or left wing extremist areas was entitled to retain the family accommodation at a peace station. On December 30, 2013 general guidelines were issued concerning family accommodation related to CRPF persons and para 7 thereof makes it once again clear that force personnel in the State of Jammu & Kashmir, North Eastern region or left wing extremist areas would be entitled to retain the family accommodation at the place of last posting.

5. Dwarka area was excluded because CRPF employees stationed at Dwarka were having transport problems to reach the place of their work and the department was providing transport. In other words the flats at Dwarka were not treated as available for allotment under the general pool, but we need no further concerning said aspect of the matter because we are not concerned with a flat allotted at Dwarka except to note the reasoning in a decision dated February 25, 2015 allowing W.P.(C) No.1824/2015 Neeraj Kumar Singh Vs. UOI & Ors.

6. In said case Neeraj Kumar Singh had been allotted a flat in Dwarka and had been posted to the State of Jammu and Kashmir. The allotment was for four years. He served in Delhi for four years and was posted to the State of Jammu and Kashmir. Penal rent was sought to be deducted for the accommodation retained by him in Dwarka. Quashing the same reasons given in the decision dated February 25, 2015 are as under:-

“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.”

7. Under the circumstances instant writ petitions have to be allowed for the reason one of the three petitioners has been posted back at Delhi and would be entitled to family accommodation at Delhi. Prior to his posting in Delhi he was entitled to retain the accommodation at Delhi. Two petitioners are entitled to retain the family accommodation at Delhi.

8. The impugned eviction notices and demands raised on the three petitioners, details whereof have been noted in para 2 above are quashed.

9. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JULY 19, 2016/mamta