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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 928/2015, CM APPL.31316 & 31318/2015

SURESH CHANDRA

..... Appellant

Through: Mr. Saurabh Kansal, Advocate.

versus

LIFE INSURANCE CORPORATION OF INDIA & ANR

..... Respondents

Through: Mr. Ankur Goel with Mr. Lovekesh Aggarwal, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

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ORDER

05.04.2016

The appellant is aggrieved by an order of the learned Single Judge declining him relief.

The respondent/employer (hereafter referred to as "LIC") who had allotted the appellant a residential quarter, alleging that since the appellant acquired his own property, issued a show cause notice, requiring him to vacate the property within seven days; this show cause notice was issued on 03.03.2015. The appellant's explanations were rejected. Eventually, the impugned order was made.

The Single Judge declined to grant any relief on the basis of facts on the record as well as the Regulations applicable to the appellant.

The facts are that the appellant works with LIC; Rule 3 which has been expressly relied upon and Rule 2.15 reads as follows:-

“2.15 No Staff Quarter shall be allotted to an employee if there is a house/flat in the name of the employee or his or her spouse or his children at the place of his posting/except as provided under Section-3.

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3.1 Zonal Manager is the Competent Authority to consider allotment of Staff Quarters to employees having their own accommodation (including rental houses) at the place of their posting on the grounds of the same being far away, being situated in unhygienic surrounding, or being in dilapidated condition, subject to the following broad guidelines:

3.1.1 Definitions

a) Unhygienic: The house is in a place where there is no municipal water supply or municipal sewerage system.

b) Far away: The house is more than 25 Kms. away from the Office. The higher limits may be prescribed for Zonal Centres.

c) Dilapidated Condition: The house is more than 50 years old or there is a Certificate from Municipality, housing or other statutory authority that it requires major structural repairs or demolition.

d) Inadequate Area inappropriate to Status: The house owned or taken on rent by the employee can be considered inadequate only if the area is less than 75% of the minimum area of the staff quarters that can be provided for the cadre in question.”

It is not in dispute that the appellant had acquired property some time in 2011. When LIC came to know about this event, a show cause notice was issued. The appellant replied to the show cause notice on 05.03.2015 contending that the property/flat owned by him was more than 25 Kms. away from the place of posting, i.e., it fulfilled the condition spelt out in paragraph 3.1.1 (b) and as such he should be allowed to continue. The LIC apparently did not pass any express order but instead persisted in issuing further show cause notices. Eventually, by an order dated 02.07.2015, it was directed that the appellant should pay ₹198604.80 as market rent.

Learned counsel urges that the impugned order has overlooked the purport of Rule 3.1.1 (b) which casts an obligation upon the employer/LIC to take a decision as to whether an employee can be allowed to continue given the facts urged. It is submitted that the question of paying damages would arise only if the request is declined which has not been done in the present case.

The LIC, on the other hand, contends that the appellant did not disclose the acquisition of a flat as far back as in 2011 and in these circumstances the Single Judge rightly refused to intervene.

It is evident from the factual narrative that the appellant had knowledge of the acquisition of the property. Ordinarily, as an employee he was expected to disclose this. Even paragraph 2.13 of the Regulations he relied upon in fact states that he is bound to disclose to the employer (LIC) about such facts

particularly when advances or loans are taken from the employer or any other entity. Clearly, in this case, the appellant did not do so. On the other hand, he just sought more time by contending that the conditions spelt out in 3.1.1 (b) are fulfilled.

Having regard to the totality of these circumstances, the Court is of the opinion that there is no infirmity with the approach and order of the learned Single Judge; the appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

APRIL 05, 2016

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