

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20574 of 2016

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Parmanand Singh, Son of Late Kamdeo Singh, Resident of Village Maheshpur, P.S. Piri Bazar, District- Lakhisarai, at present, residing at Quarter no. 183, Block No. 13, Type-I, Central Reserve Police Force, Group Centre, Muzaffarpur.

.... Petitioner

Versus

1. The Union of India, Ministry of Home Affairs through The Director General of Police, Central Reserve Police Force (hereinafter referred to as the CRPF), Block-I, CGO Complex, Lodi Road, New Delhi.
2. The Special Director General of Police, C.R.P.F. Central Zone, H.C. Block, Salt Lake, Sector- 3, Kolkatta.
3. The Inspector General of Police, C.R.P.F., Bihar Sector, Ashiyana-Digha Road, Patna.
4. The Director General of Police, C.R.P.F., Group Centre, Muzaffarpur.
5. The Commandant, 150 Batalion, C.R.P.F. Chhanni Rama, Jammu (J& K).
6. The Director General of Police, Group Centre C.R.P.F. Talegaon, Pune, Maharastra.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kripa Nand Jha, Adv.
For the Respondent/s : Mr. Awadesh Kumar Pandey, SCGC
: Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-05-2017

Heard Mr. Kripa Nand Jha, learned counsel appearing for the petitioner and Mr. Awadesh Kumar Pandey, learned Senior Panel Counsel for the Central Government, who appears alongwith Mr. Ravinder Kumar Sharma, learned CGC.

The petitioner has prayed for issuance of a writ in the nature of Certiorari for quashing the order bearing Memo No. 160 dated 8.7.2016 issued under the signature of the Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Muzaffarpur, impugned at Annexure 4, whereby the petitioner has been directed to



vacate the official quarter allotted to him by 15.7.2016, failing which he would be treated as in unauthorized occupation and with effect from 1.7.2016 he would become liable for payment of penal rent @ 5,535/- and alongside he would also be liable for being proceeded under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as 'the Act'). A copy of such order is impugned at Annexure 4 to the writ petition. A further prayer has been made by the petitioner requiring a restraint order to the respondents no. 3 and 4 not to create disturbances with the allotment so made in favour of the petitioner.

With the consent of the parties the writ petition has been heard with a view to final disposal at the stage of admission itself.

The facts of the case briefly stated is that the petitioner was appointed in the year 1997 as a Constable in the Central Reserve Police Force (hereinafter referred to as 'the CRPF') and by passage of time has been promoted to the post of Havildar. A family quarter was allotted to him in the year 2008 while he was posted at Group Centre, Muzaffarpur bearing Qr.No. 183, Block-13, Type-1. On 27.7.2009 i.e. within a year thereafter the petitioner was transferred to Jammu and Kashmir and where he moved for joining but prayed for retention of his quarter in favour of his family. The prayer of the petitioner was accepted and he was granted the privilege of retention of the quarter



which was valid until 31.3.2017. While the permission to retain the quarter continued that he received a vacation notice bearing Memo No. 160 dated 8.7.2016, impugned at Annexure 4, directing him to vacate the quarter by 15.7.2016 and feeling aggrieved he is before this Court.

While Mr. Kripa Nand Jha, learned counsel for the petitioner, has relied upon a guideline issued by 'the CRPF' in respect of allotment and occupation of family quarter and with particular reference to Rules 8 and 11 thereof he submits that the officials and staff of 'the CRPF' are permitted to retain their quarters for their family in case of posting to Jammu and Kashmir (J & K), Northern Eastern Region (NER) and Left Wing Extremist (LWE) Regions. It is submitted that Rule 11 of the Guidelines further prescribes that the normal license fee shall be payable in case of retention due to deployment in these regions. It is relying upon rules 8 and 11 of the Guidelines that it is submitted by Mr. Jha that the notice is without sanction of law.

The respondents have returned with the counter affidavit and with particular reference to paragraph 12 of the counter affidavit it is stated by Mr. Pandey, learned Senior Panel Counsel for the Central Government, that the son of the petitioner has been guilty of misconduct as he has engaged himself with altercation with the



neighbours. It is primarily on this ground that the notice of vacation has been issued under the powers vested under Rule 30 of **the Central Reserve Police Force Family Accommodation Rules, 2015**, which, inter alia, vests jurisdiction in the Estate Officer to cancel any allotment in case the conduct of the allottee or any of his family members is found unbecoming/ indisciplined. It is thus submitted that it is unbecoming and indisciplined conduct of the petitioner and his son which has led to the vacation notice.

I have heard learned counsel for the parties and have perused the records.

There is no dispute on facts that the petitioner was posted in the State of Jammu and Kashmir on 27.7.2009 and although according to Mr. Jha, learned counsel for the petitioner, he has since been transferred to Ambasa in the State of Tripura on 28.2.2017 where he has given his joining on 6.3.2017, the development is not within the knowledge of the local offices at Patna who continue to inform their counsel regarding posting of the petitioner at Jammu and Kashmir. Be that as it may, whether the petitioner continues at Jammu and Kashmir or has been transferred to Northern Eastern Region of Tripura it would not make any difference because the guidelines at Annexure 1 protects him and grants him a right to retain his quarter as manifest from Rules 8 and 11 which runs as under:



"8. The period of allotment will be till posting in eligible area as per GOI Rules for retention in case of posting to J & K, NER and LWE.

11. Normal license fee shall be payable in case of retention due to deployment in J & K NE and LEW Region."

The right of the petitioner thus to retain his official quarter at normal license fee is supported by the guidelines itself. The issue would be whether his indisciplined misconduct would yet vest him with such legal right because as per the stand of the respondents, it is the indisciplined misconduct which has led to vacation notice at Annexure 4. Now apart from the fact that the vacation notice at Annexure 4 makes no such reference of alleged indisciplined misconduct by the petitioner or his son, in my opinion, in view of the statutory prescription underlying Rule 30 of the Rules relied upon by Mr. Pandey, the vacation notice also cannot stand its legality. Rule 30 of 'the Rules', a copy of which has been enclosed at Annexure 'P' to the counter affidavit, inter alia, prescribes that on the direction of House Management Committee (HMC), the Estate Officer may cancel the allotment of family quarter if the conduct of the allottee or any of his family member is found unbecoming/ indisciplined. There is nothing in the vacation notice which would support that any complaint was made by the House Management Committee which



was followed by the order of the Estate Officer upholding the allegation to direct the allottee to vacate the quarter. In fact the order impugned is passed by the Deputy Inspector General of Police, CRPF, who has no jurisdiction to pass any such order in view of the statutory stipulations underlying Rule 30 of 'the Rules'.

My observation above is certainly not to be construed as a license to the petitioner or his family to indulge in anti-social activities or in indisciplined conduct and let this order be a caution to them to maintain discipline within the residential area under the jurisdiction of the CRPF for any such complaint would only forment trouble for the petitioner and his family.

With the advice aforementioned to the petitioner and his family I am unable to uphold the order impugned in this writ petition passed by the Deputy Inspection General of Police, CRPF for in absence of any proceeding as mandated under 'the Rules' the vacation notice is without sanction of law.

In the result, the vacation notice bearing Memo No. 160 dated 8.7.2016 of the Deputy Inspector General of Police, CRPF, impugned at Annexure 4, cannot be upheld and is accordingly quashed and set aside. The petitioner is allowed to continue in his quarter subject to the stipulations present at Rules 8 and 11 of the Guidelines at Annexure 1 and Rule 30 of 'the Rules' at Annexure 'P' to



the counter affidavit.

It is stated by Mr. Jha that penal rent has been recovered from the petitioner.

In my opinion, in view of the stipulation present at Rule 11 of the Guidelines, the respondents cannot recover penal rent from the petitioner and let the excess rent so recovered from the petitioner be adjusted towards the future rent payable by the petitioner at normal license fee.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.06.2017
Transmission Date	NA

