

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1302 of 2017
and
C.M.P.No.18166 of 2017

N.Bhaskara Rao

Appellant

1. The Director General of Police,
Directorate General,
CRPF CGO Complex, Lodi Road,
New Delhi 110 003.
2. The Inspector General of Police,
Southern Sector, CRPF,
Road No.10C, Jubilee Hills,
Near MLA/MPS Colony,
Gayathri Hills, Hyderabad 500 033.
3. The Deputy Inspector General of Police,
Group Centre, CRPF, Avadi,
Chennai 600 065.
4. The Commandant,
2nd Signal Battalion GC,
CRPF, Chandrankutta,
Hyderabad 500 005.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 21.8.2017 passed in W.P.No.14782 of 2017 on the file of this court.

WP.No.14782 of 2017:Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 01.03.2017 issued by the 3rd Respondent in proceedings No.A.II.04/ 2017-GCA- Bldg and his consequential order dated 05.04.2017 in proceedings No.A.II-1/ 2017-GC-(A) Bldg. for vacation of family quarter and recovery of damage rent at the rate of Rs.12 400/- from the salary of the petitioner from the date of 01.05.2017 and quash the same in petitioner concerned and retain him in the family Quarter No.2130 Type-II C-9 Block in GC CRPF Campus for till his posting out from Jammu & Kashmir.

For appellant : Ms.R.Meenakshi
For respondents : Ms.R.Meenakumari,
Central Government Standing Counsel

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The orders, directing the appellant/writ petitioner to vacate the Government Quarters occupied on the ground that he had been in occupation of the same for more than nine years and to pay damage rent for the overstayed period, had been challenged in the writ petition by the appellant/writ petitioner and having failed in the writ petition, the present writ appeal has been filed by the appellant seeking indulgence of this court.

3. It appears that the appellant/writ petitioner is presently working in 53 Battalion, CRPF, Bharamullah (Jammu & Kashmir) as Head Constable/Radio Operator and apart from Jammu & Kashmir, he had served in various places viz., Madhya Pradesh, Punjab, New Delhi, Jharkhand, Tripura, Gujarat from the date of his joining duty on 1.4.1988 as Constable and he has a few years of remaining service. The recent postings of the appellant are as under:-

From June 2005 to June 2007	Poonamallee, Chennai
From July 2007 to August 2008	Kupwara, Jammu & Kashmir
From September 2008 to September 2011	Anantanag District, Jammu Kashmir,
From October 2011 to April 2015 and	Poonamallee, Chennai
From May 2015 till date	Baramulla, Jammu & Kashmir

We find that on 10.12.2007, the appellant was allotted the present quarters at Avadi, when he was serving at Jammu & Kashmir, may be considering his previous tenure in Chennai. Whiles, now vigorous steps have been initiated by the respondents to evict the appellant/writ petitioner and claim penalty rent considering the retention of the quarters as unauthorised one.

4. The case of the appellant/writ petitioner is that he has got two daughters, who are at the verge of completion of their professional degree and therefore, he seeks for retention of the quarters for the sake of his family and better education of his children.

5. The learned Standing Counsel appearing for the respondents would submit that the appellant has been in occupation of the quarters for nearly ten years and if he is allowed to continue, the other persons who are posted at Chennai and waiting in queue would be affected and there is an accommodation at Hyderabad for the similarly placed persons which he can occupy.

6. On going through the materials placed before us, we find that originally, as per Official Memorandum dated 18.2.2002 issued by the Government of India, Ministry of Home Affairs, the CPMFs Personnel posted at Jammu & Kashmir and North Eastern region were permitted to retain the official quarters upto three years, which was extendable upto five years by the GCOs, seven years by Sector IG and beyond seven years by DG under special circumstances keeping in view the educational prospects of the wards of force personnel as evident from the circular issued by the Directorate General, Central Reserve Police Force, New Delhi under reference No.AII-2/2008-09-Adm.I dated 28.7.2009 and in the meanwhile, vide Official Memorandum of the Government of India, Ministry of Home Affairs dated 12.6.2008 the period of retention of quarters in such cases was extended till the actual period of posting in Jammu & Kashmir and North Eastern region and also by letter dated 14.7.2012 of the same Ministry, such a benefit was extended to the transferee of Left Wing Extremism (LWE) affected areas/Districts also.

7. The matter of security to the nation has got its own significance and it cannot be denied or ignored that the CPMFs personnel deputed at hypersensitive areas have to discharge their duties in protecting the nation at the risk of their lives, however, with peace of mind and without getting disturbed by their household affairs. Certainly, they cannot be equated with regular Government employees. Therefore, it is the bounden duty of the Government to extend larger benefits to them so that they could feel free from such things and serve the nation with devotion. This alone could be the scope underlying the above concession shown by the Government of India. Denial of such benefits to the appellant/writ petitioner and thereby dislocating his family would not be fair on the part of the respondents. Even on technicalities, the retention of the quarters cannot be treated as one stream and as length as deemed by the authorities to treat it as unauthorised one, as we find that the appellant had been serving in Poonamallee, Chennai from October 2011 to April 2015 and the present tenure at Jammu & Kashmir is only from May 2015 which is also going to end, probably by the year 2018. Therefore, the authorities have to be reasonable with some balance of convenience in allotting the quarters or shuffling the same among the CPMFs Personnel depending upon their family circumstances.

8. Therefore, while setting aside the orders passed by the learned Single Judge as well as the orders impugned in the writ petition, we direct the respondents to extend the retention period of the quarters occupied by the appellant/his family members till the completion of the present course of education by the wards of the appellant or as long as the appellant is posted at hypersensitive areas whichever is later, or else, if the respondents are still on mere technicalities, they can consider transferring the appellant/writ petitioner to the Southern Region considering his past services at various hypersensitive places and thereby the necessity to evict his family members from the quarters presently occupied by them should not arise.

9. In view of the above, the writ appeal is allowed. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

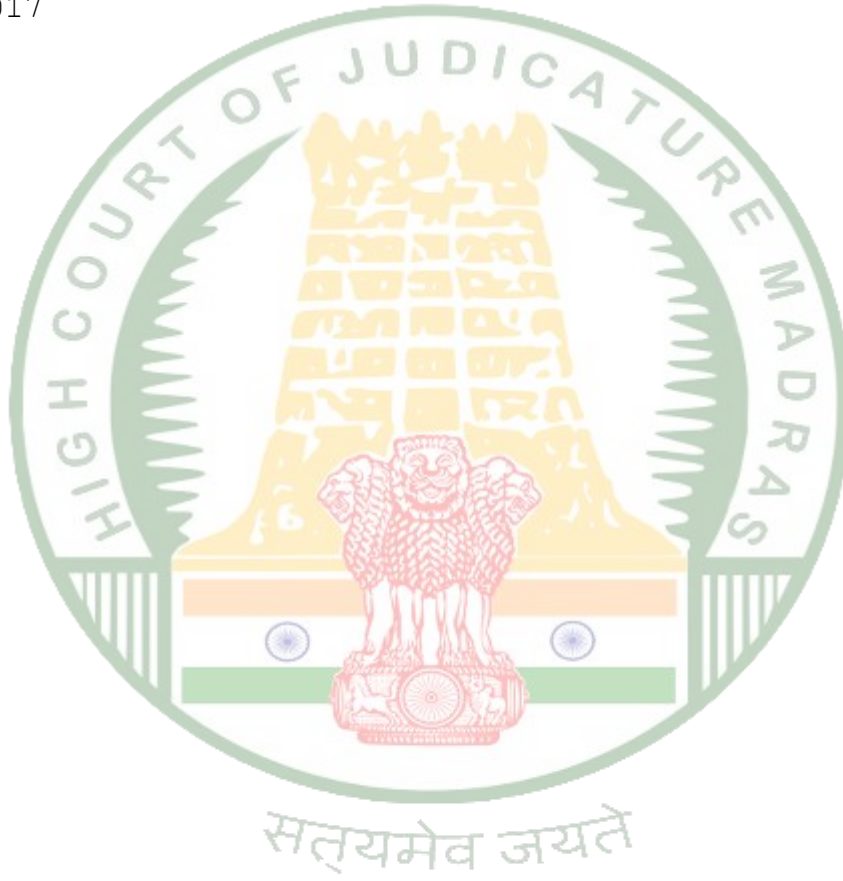
To:

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+1 cc to M/s.R.Meenakshi Advocate sr 80579
+1 cc to M/s.S.Meenakumari Advocate sr 80705

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