

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
WRIT PETITION No.20919 of 2017

and

W.M.P.Nos.21803 & 21804 of 2017

V.Sivamoorthi,
Sub-Inspector/Radio Operator(SI/RO)
No.880924317(12 Bn, Sambalpur, Odisha)
Quarter No.2080, Type-II, C-6 Block,
Group Centre, CRPF,
Avadi, Chennai - 600 065. Petitioner

Vs.

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.10 C, 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.
 5. The Commandant,
3rd Signal Battalion, CRPF,
Salt Lake, Kolkatta,
West Bengal - 91.
- ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 16.12.2016 issued by the 3rd Respondent in proceedings No.A.II-4/16-17-GC(Avadi)-Bldg. and his consequential order dated 01.03.2017 in proceedings No.A.II.04/2017-GCA-Bldg and order dated 05.04.2017 & 04.07.2017

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.2080, Type-II, C-6 Block, in GC CRPF Campus for till his posting out from LWE area (Sambalpur).

For Petitioner : M/s.R.Meenakshi

For Respondents : M/s.S.Meenakumari
Central Government Standing
Counsel(CGSC)

O R D E R

The order directing the writ petitioner to vacate the Government accommodation which he is in occupation as of now, Quarters No.2080, Type-II, C-6 Block in GC CRPF Campus at Avadi, Chennai.

2. The learned counsel appearing for the writ petitioner contended that the writ petitioner is in Government Accommodation from the year, 2008 onwards and now, he is working in 12th Battalion, Odhisa. The 3rd respondent passed an order on 16th December, 2016, directing the writ petitioner and other personnel to vacate the Government Accommodation within fifteen days from the date of the receipt of the letter. However, the writ petitioner without vacating the Quarters made a representation to the authorities, stating that as per the Government of India Memorandum, he is entitled to continue in Government Accommodation at Avadi, Chennai, on the ground that he has been posted to Left Wing Extremists affected area(LWE).

3. Thus, he claimed that he is entitled to continue in the Government Accommodation allotted to him at Avadi, Chennai. The learned counsel further contended that the office Memorandum dated 18th February, 2002 stipulates that Retention of CPMF Pool Accommodation at the last place of posting by CPMF Officer and posted to Jammu & Kashmir and North East Region, which is eligible to retain their Quarters, subject to certain conditions. Further, a letter was issued on 14th July, 2012 stating that the facility of Retention of Government Accommodation at the last place of posting for CRPF in LWE affected area may be extended. Thus, the writ petitioner is eligible to continue in Government Accommodation. In view of the fact that he is posted in LWE area. The learned counsel further argued that the son of the writ petitioner is studying

at Avadi, Chennai and he is continuing his studies and only after the completion of studies, he will be in a position to shift his family.

4. The learned counsel appearing for the respondents opposed the contentions by stating that the writ petitioner is continuing in Government Accommodation at Avadi, Chennai from the year 2008 and continuously staying for the past nine years. He had been transferred to Odisha on 24.07.2017 and joined there. Thus, the Accommodation for the writ petitioner is very well available either at Bhubaneswar or at Hyderabad Group Centre for the writ petitioner.

5. An employee posted in Odisha is eligible to get Government Accommodation in the Group Centre at Hyderabad or at the place of working at Bhubaneswar. Bhubaneswar is also a State Capital and all facilities including Education for children are available and therefore, the reason stated by the writ petitioner should not be accepted.

6. This apart, the learned counsel appearing for the respondents contended that 125 personnels working in Jammu & Kashmir are waiting in Queue for their Accommodation at Avadi, Chennai. In view of the continuance of these persons like petitioner, the respondents are unable to provide Government Accommodation to the personnels who are working in the Border areas of Jammu & Kashmir. Their rights to get their Government Accommodation are also affected. Contrarily, the writ petitioner is eligible to get Government Accommodation either in Bhubaneswar or at Hyderabad, on submitting his applications. Thus, the writ petitioner is not entitled to continue in the Government Accommodation at Avadi, Chennai.

7. The legal principles in this regard is that Government Accommodation can never be claimed as a matter of right nor the Government Accommodation is a part of service condition stipulated in service rules. All Government Accommodations extended by the Government is a facility, provided to the public servants for effective functioning and for good administration. The facility granted to the Government employee can never be claimed as a matter of right. It is always left open to the competent authority to formulate a procedure for allotment of these Government Accommodations and such allotments are to be made in accordance with the procedures prescribed therein to avoid all inconsistencies and discriminations in allotting Government Accommodations. The purpose of contemplating procedures for Government Accommodation is to avoid discrimination and exercise of power in a capricious manner. In other words, to regulate the allotment, such a procedure is contemplated. Thus, the Government Orders of procedures contemplated for Government Accommodation can never be construed

as a rule nor will confer any right on the employees. It cannot be possible for the Government to grant Government Accommodation to all the public servants working either with the Union or with the State. Thus, the Government Accommodation has to be provided in accordance with the seniority and in accordance with any other preferences stipulated in the procedure. To mitigate certain hardships to the families of such Uniformed personnel, certain concessions are shown by way of instructions. Such instructions or orders issued by the Government cannot be claimed as a matter of right by the employees. It is a concession shown by the Government in order to provide a conducive circumstances, so that a person working in uniformed service can spend time with his family members. With this object, the instructions and circulars and guidelines are issued to avoid inconveniences/discriminations and exercises of power in a capricious manner is to be avoided. The competent authorities have to exercise the power of allotting Government Accommodation in a judicious and honest manner so as to avoid any such discriminations and unnecessary ill feelings amongst the personnels of uniformed services. All that employees expect from the competent authorities are fairness and to fulfill the same, the competent authorities should also exercise the power of granting Government Accommodation, so as to in order to eradicate inequalities, inconsistencies in passing orders in this regard. However, the employees have no right of Government Accommodation and it is after all a facility provided by the Government to the families of the personnel working in uniformed services. This being the view of this Court, the claim of the writ petitioner for his continuance in the Government Accommodation at Avadi, Chennai, has no better reason and the writ petition is devoid of merits.

8. The writ petitioner having in occupation of the Government Accommodation for about nine years continuously. Now, he is working in Odhisa wherein there is a facility for Government Accommodation either at Bhuvaneshwar or at Hyderabad is available. This being the factum of the case, there is no legal right vested to the writ petitioner for his continuance in the Government Accommodation at Avadi, Chennai. Accordingly, no further consideration is to be shown on the grounds raised in this writ petition.

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9. Thus, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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+1 cc to M/s.S.Meenakumari Advocate sr 56636
+1 cc to M/s.R.Meenakshi Advocate sr 57103

W.P.No.20919 of 2017

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aa22/09/2017