IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11207 of 2009 (O&M)
Date of decision : September 08, 2017

Vinod Bala

...... Petitioner

v.

Chairman House Allotment Committee & others,

...... Respondents

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. SB Nagpal, Advocate
for the petitioner.

Mr. Suvir Sehgal, Sr. Standing Counsel
with Ms. Shivani Sharma, Advocate
for the respondents.

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Ajay Tewari, J (Oral)

By this writ petition, the petitioner has challenged the action of the respondents in seeking to levy penal rent w.e.f 1.1.2009.

The admitted facts are that the petitioner had retired from Chandigarh Administration on 31.8.2008. During service she was allotted a government house, and as per the Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996 (for short "the Rules") could retain the said house for a period of four months on payment of normal licence fee i.e upto 31.12.2008, for a further period of three months on payment of 20 times the normal licence fee i.e upto 31.3.2009 and for a further period of three months on payment of 30 times the normal licence fee i.e upto 30.6.2009. Admittedly, the petitioner did not vacate the house even by 30.6.2009 and ultimately vacated it in the month of July 2009. By the impugned order, the respondents have claimed penal rent from the petitioner at 50 times the licence fee for the entire period from 1.1.2009 till 31.7.2009.

Counsel for the petitioner has argued that as regards the period of over stay, rule 21 of the Rules governs the field and as per that the petitioner is liable to pay 50 times the normal licence fee only for the period of over stay and penal rent cannot be charged for the period 1.1.2009 to 30.6.2009. Rule 21 of the Rules is to the following effect :-

> "21. **Overstay in residence after cancellation of allotment**-S.R 317-AM-21.- Where after an allotment has been cancelled or is deemed to have been cancelled under any of the provisions of these rules, the residence remains or has remained in occupation of the Government employee to whom it was allotted, such Government employee shall be liable to pay damages for use and occupation of the residence, service, furniture and garden charges equal to fifty times the normal licence fee."

Counsel for the respondents has, however, argued that the letter by which the petitioner was granted extension to stay i.e Annexure P-1 itself carried the condition that she would be liable to pay penal rent equal to 50 times the normal licence fee for the entire period from 1.1.2009 in case she did not vacate the premises by 30.6.2009.

The precise grievance of the petitioner is that this is not permissible under the Rules. A perusal of rule 21 does indicate that power to treat any period as exigible for penal rent with retrospective effect is not granted. It only envisages payment of 50 times the normal licence fee for the period of over stay which in the present case is from 1st July 2009. In the circumstances, this writ petition is allowed and the impugned order is set aside. It is held that the respondents are entitled to charge 50 times the normal licence fee only for the month of July 2009.

Counsel for the petitioner states that the petitioner has paid the entire amount. Let the excess amount be refunded to her within a period of two months from the receipt of a certified copy of this order failing which she would be entitled to claim the same with interest @ 8% pa from the date of deposit till the date of payment.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

September 08, 2017
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No