

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**Civil Writ Petition No.19050 of 2017**  
**Date of Decision: August 24, 2017**

**Vinay Kumar**

...Petitioner

Versus

**Union of India through the Director General, C.S.I.R, New Delhi & others**

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE  
HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

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Present: Mr.V.K.Sharma, Advocate,  
for the petitioner.

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**AMIT RAWAL, J.**

Vinay Kumar petitioner has preferred present writ petition seeking setting-aside of the order dated 11.7.2017 (Annexure P-3), wherein challenge was to the order dated 10.6.2015 (Annexure A-1), requiring him to deposit penal licence fee @ ₹40,519/- per month amounting to ₹16,22,067/- pertaining to the Government Accommodation No.A-9 Type V for retaining the same w.e.f. 1.6.2011 to 1.10.2014.

Mr.V.K.Sharma, learned counsel representing the petitioner submitted that the wife of the petitioner, working as Superintendent in the Punjab Engineering College, Chandigarh, was allotted Government Accommodation, i.e., H.No.213, PEC Campus, Sector 12, Chandigarh. The petitioner was transferred to CSIO-CSIR and started residing with his wife in PEU Campus. Vide application dated 23.12.1993 (Annexure A-2), he

submitted a request for release of the House Rent Allowance (for short “HRA”). He was granted the HRA w.e.f. 1.3.1993. In the meantime, a complaint was made against the petitioner for unauthorised withdrawal of the HRA. In view thereof, a show cause notice dated 29.3.2005 (Annexure A-3) was served upon the petitioner as to why the recovery of HRA drawn unauthorisedly from CSIO w.e.f. 1.3.1993 be not recovered from him. A detailed reply (Annexure A-4) was submitted. The authorities, vide order dated 26.2.2009 (Annexure A-5), stopped the HRA of the petitioner. As per the prevailing rules, i.e., Central Civil Services (Classification, Control and Appeal) Rules, 1965, the petitioner was charge-sheeted for unauthorisedly drawing the HRA to the tune of ₹1,96,677/-. The response submitted was not found to be satisfactory, but later on as per letter dated 14.11.2007, he had agreed to deposit the HRA. Resultantly, the charges, vide order dated 13.12.2010, were dropped. During the interregnum, some dispute allegedly between the husband and wife had erupted. The petitioner submitted an application dated 15.12.2010 (Annexure A-10) for allotment of CSIO accommodation. On consideration of his application, accommodation A-9, Type V was allotted vide letter dated 23.5.2011 (Annexure A-11). Possession of the same was taken on 26.5.2011 (Annexure A-12).

On 30.9.2014 (Annexure A-13), the petitioner vacated the aforementioned accommodation, but was surprised to receive the show cause notice dated 24.11.2014 (Annexure A-14) on account of violation of Rule 7.7 of CSIR (Allotment of Accommodation) Rules, 1997. The said rule envisages that an employee is not entitled to accommodation when the wife is already in occupation of residential accommodation. Accordingly, the petitioner was called upon to pay penal fee of ₹40,519/- per month

amounting to ₹16,22,067/-. The petitioner submitted representation dated 8.12.2014 (Annexure A-15), which was rejected. Vide order dated 10.6.2015 (Annexure A-1), the petitioner was directed to deposit the aforementioned amount. The petitioner assailed the said order on the ground that there is no provision in the relevant allotment rules that the husband and wife cannot be allowed to have separate accommodation. According to the petitioner, the only provision incorporated is that if two separate accommodations have been allotted, then in that eventuality, one has to be surrendered, which, as noticed above, had been done.

It was next contended that it is a matter of record that no eviction proceedings under the Punjab Public Premises (Eviction of Unauthorised Occupants) Act, 1971, were ever initiated. The CAT has committed illegality and perversity in accepting the stand of the State by relying upon the aforementioned rules. There is no finding with regard to the said rules. The reference has also been made to letter dated 27.3.2006 (at page 190 of the paper book), to contend that the penal rate of rent @ ₹40,519/- could not be charged, whereas penal rent was ₹255/- per Sq.M.per month. There was no misrepresentation or any concealment on the part of the petitioner that he had been residing with his wife, who had been allotted House No.213, PEC Campus, Sector 12, Chandigarh. The Tribunal also ignored the crucial fact that the identity card carried the address of the accommodation allotted to his wife and the respondents knew from the very beginning that he had been living with his wife as the accommodation had been allotted to the wife. The department had withheld the HRA and recovered the alleged amount on the ground that he was living with his wife. Thus, it was pleaded that there was no occasion for the

authorities/department to claim the penal rent for the period aforementioned and, therefore, the impugned order is liable to be set-aside.

We have heard the learned counsel for the parties, appraised the paper book and are of the view that there is no merit and force in the submissions of Mr.Sharma.

Admittedly, the petitioner is governed by “CSIR (Residence Allotment) Rules, 1977” (in short “the Rules”). Rule 7.7 of the aforesaid Rules provides that where husband and wife both are in Council's service at the same station, the allotment of house shall be made to one of them. It has further been stipulated that both shall be eligible to apply for allotment separately according to their entitlement and eligibility of each shall be determined separately for allotment purposes. This rule shall not have any applicability where husband and wife are residing separately in pursuance of Court order for judicial separation. It reads thus:-

*“7.7 When both husband and wife are in Council's service at the same station, only one of them shall be entitled to allotment of residence. However, both of them shall be eligible to apply for allotment separately on the basis of their entitlement. The eligibility of each shall be determined separately for allotment purposes.*

*Provided that this rule shall not apply in cases where husband and wife are residing separately in pursuance of a court order for judicial separation.”*

Rule 7.9 of the Rules is also relevant for the purposes of adjudication of the present controversy, which is in following terms:-

*“7.9 When one of the spouses has been allotted or is in*

*occupation of accommodation from a pool to which these Rules are not applicable, he shall have to surrender either the Council residence or the pool residence within one month of occurrence of such event. If he fails to surrender one of the residences within the specified period of one month, the allotment of Council residence shall be deemed to have been cancelled.”*

According to the aforesaid rule, if one of the spouses has been allotted or is in occupation of accommodation from a pool to which the aforesaid rules are not applicable, then he shall have to surrender either the council residence or the pool residence within one month of the occurrence of such event and in case of failure to do so, the allotment of Council residence shall be deemed to have been cancelled.

The petitioner had retained the government accommodation with effect from 1.6.2011 to 1.10.2014 in violation of the aforesaid rules as alternative accommodation had already been allotted to his wife and the case was not covered under the Proviso to Rule 7.7. of the Rules. It was also claimed by the petitioner that there was some quarrel with his wife and therefore, his case was covered under Proviso to Rule 7.7 of the Rules. However, the said averment remained unsubstantiated as the petitioner was unable to demonstrate that there was any such dispute between the two. In such circumstances, in terms of Rule 18 of the Rules, penal rent was payable by the petitioner. Rule 18 is extracted as under:-

**“18.0 PENAL LICENCE FEE**

**18.1 The rates of penal licence fee shall be as follows:**

| Type of residence | Station                                                                                                     | Station        |
|-------------------|-------------------------------------------------------------------------------------------------------------|----------------|
|                   | A category:<br>Delhi,<br>Calcutta*,<br>Mumbai,<br>Chennai,<br>Hyderabad,<br>Bangalore,<br>Lucknow &<br>Pune |                |
| I                 | Rs.2000/- p.m.                                                                                              | Rs.1500/- p.m. |
| II                | Rs.2500/- p.m.                                                                                              | Rs.2000/- p.m. |
| III               | Rs.3000/- p.m.                                                                                              | Rs.2500/- p.m. |
| IV                | Rs.4000/- p.m.                                                                                              | Rs.3000/- p.m. |
| V                 | Rs.5000/- p.m.                                                                                              | Rs.4000/- p.m. |
| VI                | Rs.6000/- p.m.                                                                                              | Rs.5000/- p.m. |
| VII               | Rs.7000/- p.m.                                                                                              | Rs.6000/- p.m. |

*\*Kolkata (Webmaster 2005)*  
*Scientist Apartments/Hostels: 15 times the normal licence fee for all stations.*  
*18.2 DG, CSIR shall have power to revise the penal licensee fee from time to time”.*

Thus, it cannot be said that the demand raised by the respondents for penal rent from the petitioner or the order passed by the Tribunal rejecting the challenge made thereto could be faulted. Accordingly, finding no merit in the writ petition, the same is dismissed.

(AJAY KUMAR MITTAL )  
JUDGE

( AMIT RAWAL )  
JUDGE

August 24, 2017  
ramesh

Whether speaking/reasoned

Whether Reportable:

Yes/No

Yes/No