

CWP No.19371 of 2017

[1]

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

**CWP No.19371 of 2017
Date of decision:29.08.2017**

Harvel Singh ...Petitioner

Versus

Union of India and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Nikhil Anand, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has challenged the notice dated 14.01.2015 by which he has been asked to vacate the family accommodation, order dated 03.09.2015/16.09.2015 by which penal deductions of ₹9,800/- per month has been levied on the petitioner for unauthorizedly occupying the family accommodation and the letter/reply dated 22.12.2016 to the legal notice served by the petitioner upon the respondents by which claim of the petitioner for retention of family accommodation and stoppage of penal deductions has been rejected.

In short, the petitioner was enrolled in CRPF on 29.04.1998 as a Constable (General Duty) and was granted Force No.981440635 after successfully completing the training at RTC, Srinagar. While the petitioner was posted at Group Centre, Gandhinagar, he was allotted Family Quarter No.345, Type-II in Group Centre, Gandhinagar. Thereafter, he remained posted at various places including Assam, 114 Battalion (MHA Reserve),

Jalandhar and is presently posted with 96th Battalion in Srinagar. The petitioner was served with the vacation notice dated 14.01.2015 to vacate the government family accommodation allotted to him at Gandhinagar in view of the Government of India, Ministry of Urban Development, General Pool Residential Accommodation (GPRA) Rules, 1963 and the letter of the Directorate General dated 30.12.2013, as per which the family quarters can be allotted only to the personnel who are posted in particular office/institution/Group Centre, its affiliated units and other offices located in the same campus and since the petitioner was posted to 114th Battalion, therefore, he was asked to vacate the family quarter before 31.03.2015, otherwise, he was informed to be declared as unauthorized occupant and the penal deductions under Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the "Act") would be imposed upon him.

The petitioner did not challenge that notice/order at that time and after waiting almost for 6 months for the petitioner to vacate the family quarter, the respondents served a notice upon the petitioner on 11.06.2015 to show cause on or before 30.06.2015 as to why a sum of ₹9,800/- per month be not recovered from him. The petitioner submitted his objections and ultimately, vide order dated 03.09.2015, the competent authority, while exercising its powers under Section 7(1) of the Act, asked the petitioner to pay ₹9,800/- per month . The order was further amended and in continuation of the order dated 03.09.2015 another order dated 16.09.2015 was passed in respect of the date of recovery from 01.07.2015 instead of 01.07.2017. The petitioner was also sent recovery notice accordingly but instead of challenging the validity of the

aforesaid two orders by way of appeal, as provided under Section 9 of the Act, the petitioner allegedly served a legal notice dated 13.09.2016 upon the respondents. The said legal notice has been duly replied by the respondents on 22.12.2016 and now the petitioner has come to this Court to challenge the letters/orders dated 14.01.2015 and 03.09.2015 almost in the end of the month of August, 2017.

Counsel for the petitioner has submitted that earlier, the petitioner did not approach this Court because he had served a legal notice to the respondents on 13.09.2016.

The said legal notice was served after the expiry of one year, which though was replied by the respondents on 22.12.2016 but it does not give a cause of action to the petitioner as he cannot challenge the reply to the legal notice by way of a writ petition, which too belatedly as the impugned order was passed against the petitioner as far back as on 03.09.2015/ 16.09.2015 and he is still occupying the demised premises.

Not only that the present petition is highly belated but also there is no force in the submission made by the petitioner that in view of the guidelines dated 20.03.2015 he could have retained the demised premises as he was posted in difficult areas.

Further more, in view of the availability of statutory remedy of appeal under Section 9 of the Act against the order passed under Section 7(1) of the Act, the extraordinary writ jurisdiction of this Court under Article 226/227 of the Act cannot be invoked by misleading this Court by way of making false averments in the writ petition that no other alternative remedy of appeal or revision is available to the petitioner.

Consequently, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

August 29, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No