

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

211

CWP No.8601 of 2013 (O&M)

Date of Decision : 22.12.2017

Mandish Singh and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Dinesh Kumar, Advocate
for the petitioners.

Mr. H.S.Sitta, Asstt. Advocate General, Punjab.

AJAY TEWARI, J.

By this petition the petitioners have challenged the allotment of H.No.2559-A, Sector 39-C, Chandigarh allotted to petitioner No.1 on the ground that this is not according to his entitlement and to challenge the order dated 01.02.2013 by which the plea for retaining H.No.3082-A, Sector 39-D, Chandigarh was rejected.

The brief facts are that the father of the petitioner No.1 and husband of petitioner No.2 was working as Superintendent Grade-II in the Jail Department when he died in harness on 07.01.2007. At that time he was in occupation of H.No.3082-A, Sector 39-D, Chandigarh which is a type III house. The petitioner No.1 applied for a job on compassionate basis and was appointed as a Clerk in the office of the DGP Jails on 23.07.2009 i.e. after about 2 ½ years. He moved an application that he should be either permitted to retain H.No.3082-A, Sector 39, Chandigarh or

be allotted another house of his entitlement but no action was taken by the

respondents till the passing of order (Annexure P-24) and even by that order a house which was below his entitlement was granted to him and that is how the petitioners filed the present petition with the above stated reliefs. At this stage it would be appropriate to reproduce the Rule relating to such employees and allotment of houses to them. Rule 23 of the Punjab Government Houses (General Pool) Allotment Rules, 1983 as amended from time to time is as follows :-

“23. Allotment of house to the member of family of the deceased Employee -

When an employee dies while in service a house of a type not higher than that of his entitlement may be allotted, out of turn, to a member of his family who is in service of the Government or who joins such service within one year of the date of death the employee;

Provided that a member of the family of the deceased employee shall not be allotted a house if the family has its own private house at the place of posting of the member of the family of the deceased employee.”

Learned counsel for the petitioners has argued that as per that Rule it was incumbent upon the respondents to have allotted a house to him as per his entitlement and till such time an appropriate house was allotted to him he was justified in retaining the house which he had been allotted to his father.

On the other hand learned Assistant Advocate General has argued that after the death of his father the house which had been allotted to him was permitted to be retained by his widow (the mother of petitioner No.1) for a period of one year i.e. upto 06.01.2008. In the words of the Assistant Advocate General the petitioner No.1 and his mother were bound

got a job he could have applied for allotment of a house as per the Rules. In the present case neither the petitioner No.1 got a job within one year and nor was he otherwise entitled to retain the higher category of accommodation and consequently he has prayed that the petition be dismissed.

Learned counsel for the petitioners points out that the petitioner No.1 never received any house rent allowance and once Rule 23 recognized the right of the petitioner No.1 for out of turn allotment the delay of about 3 years in allotting the house and that too not of the category to which the petitioner No.1 was entitled would justify the retention of the house by him.

However learned Assistant Advocate General is not in a position to deny that H.No.2559-A, Sector 39-C, Chandigarh which was allotted to the petitioner No.1 was lower than the category which he was entitled to because his pay scale was revised to Rs.10,300-34,800/- whereas as per the Rules an employee drawing basic pay of Rs.8,779/- was entitled to a type-II house and H.No.2559-A, Sector 39-C, Chandigarh which was actually allotted to the petitioner No.1 in 2012 was a type-I house.

At this stage it would be necessary to reproduce the order dated 26.08.2016 :-

“Learned counsel for the petitioners submitted that during pendency of this petition, the Government house accommodation has been allotted to the first petitioner as per his entitlement. Now whether, the first petitioner is liable to pay penal rent or not during the intervening from the year 2008 to 2015, the date on which allotment has been made in this regard, affidavit of the respondents be filed on the next date of hearing.

List this matter on 22.11.2016.”

Thus what we are left with is that the petitioner and his mother were to vacate H.No.3082-A, Sector 39-D, Chandigarh on 07.01.2008. He was appointed to Government service subsequently and was allotted H.No.2559-A, Sector 39-C, Chandigarh (which was a lower category house) in 2012. Thus it has to be held that w.e.f. 07.01.2008 till the allotment of H.No.2559-A, Chandigarh the petitioner No.1 would be liable to pay penal rent for H.No.3082-A, Sector 39-D, Chandigarh. Since he did not receive any House Rent Allowance from the date of his appointment he would be entitled to House Rent Allowance for that period also.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

22.12.2017
Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No