

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: September 20, 2017

+ **LPA 627/2017 & CMs 34616-17/17**

NAWAL KISHORE YADAV Appellant

Through: Mr. Nikhil Jain and Mr. Satya
Prakash, Advocates

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Vikas Mahajan, CGSC with
Mr. S.S. Rai, Advocate

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. Issue notice. Mr. Vikas Mahajan, CGSC accepts notice.
2. With consent of counsel, the matter was heard finally.
3. The appellant/petitioner is aggrieved by the learned Single Judge's order. He had questioned the letter issued by the respondents requiring him to vacate the official quarter that he was permitted to retain soon after his repatriation and subsequent posting in the North East Region.
4. The appellant/petitioner is an employee of the Border Security Force (BSF) who while serving in West Bengal, was deputed to the National Security Guard (NSG) for five years; his tenure ended sometime in 2015. Upon his repatriation, he was posted by BSF to Silchar, Assam where he joined on 06.05.2015. The General Pool Residential Accommodation—maintained by the Directorate Estate of Central Government—pursuant to its extant policy allowed the

appellant/petitioner to retain possession of the quarter originally allotted when he was on deputation till 30.06.2016. It was subsequently extended till 30.06.2018 (on 10.05.2016). The appellant/petitioner was served with a notice requiring him to vacate the premises latest by 01.09.2017 on the ground that under the policy, he was not entitled to the accommodation. Furthermore, the flat allotted to the appellant/petitioner is located in Sarojini Nagar, which is scheduled for redevelopment. This led him to approach the Court under Article 226 of the Constitution of India.

5. Learned Single Judge after noticing the relevant policy with respect to retention of Central Government Accommodation upon postings and transfers of certain classes of government employees—notably the policy contained in the memorandum dated 07.09.1998; 15.09.1998 and the office memorandum of 24.05.2016, felt that the appellant/petitioner should have been at least granted three months' time to vacate the government accommodation instead of a short notice. In these circumstances, it was directed that the appellant/petitioner should be allowed to retain accommodation till 30.09.2017.

6. The appellant/petitioner is aggrieved by the direction, which according to him stops short of his entitlement in terms of the latest policies, especially, the policy of 24.05.2016. It is contended that the policy places no time limit for retention of accommodation which can continue, co-terminus with the posting tenure depending on duration of the employee's employment in the Northeast area. On the other hand, the Central Government contends that such an elastic interpretation is impermissible and emphasizes, that these policies were framed for the benefit of officials serving in the All India Services.

7. The Court has considered the entirety of circumstances. It is an undisputed fact that the allotment to the appellant/petitioner was extended upto 30.06.2018. This is based upon the respondents' understanding that such accommodation should be retained by a person sent to the Northeast on posting for three years. Undoubtedly, the exigencies of redevelopment required demolition of the flats. At the same time, the Central Government in this instance, in our opinion, should not have faulted on its commitment to house its employee, who is now posted in a forward/border area, and given him such short notice for vacating his house. Given that the period granted is even as on date a short one, a direction is issued to the Central Government (which the counsel has agreed to comply with) to continue the allotment till 30th April, 2018, with a suitable alternative flat. The appellant/petitioner shall be handed over allotment and possession of such suitable alternative flat within 15 days from today. The appellant/petitioner shall also furnish an undertaking to vacate such allotted quarter latest by 30th April, 2018. The undertaking shall be filed within a week before this Court with a copy to the respondents.

8. The appeal is allowed in above terms.

S. RAVINDRA BHAT
(JUDGE)

SUNIL GAUR
(JUDGE)

SEPTEMBER 20, 2017

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