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

% *Date of Judgment: 26th April, 2018*

+ W.P.(C) 2899/2017

ASHOK KUMAR SINGH Petitioner
Through: Mr. P. Sureshan, Advocate

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Arun Bhardwaj, CGSC with Mr.
Nikhil Bhardwaj, Advocate for the
respondents along with Inspector
Sanjay Kumar, CISF.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. With the consent of the parties, the writ petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of the Constitution of India filed by the petitioner. The necessary facts to be noticed for disposal of the present petition are that the petitioner initially joined the Central Industrial Security Force(CISF) as a Constable on 05.08.1989. In the year 2008, the petitioner was working at CISF Unit of IOC Barauni. On 30.04.2008, the petitioner was transferred to the CISF Unit Duliajan in the State of Assam. The petitioner made a representation that post transfer, he was not offered a formal accommodation at Duliajan and, accordingly, sought permission to retain the family quarter at IOC Barauni Unit till March 2010. The respondents imposed a penal rent upon the petitioner for a period of 18 months as

informed by a communication dated 19.05.2010. The Unit was also directed to deduct the penal rent from the salary of the petitioner. A detailed representation made by the petitioner on 17.01.2011 was not accepted and the penal rent was deducted from his salary, which has led to the filing of the present writ petition. The petitioner seeks refund of Rs.48,480/-.

3. Mr. P. Sureshan, learned counsel appearing on behalf of the petitioner has strenuously urged before this Court that the petitioner could not have left the accommodation at Barauni as his son was appearing for the Class X examination. He further submits that since the petitioner could not get admission for his child at Duliajan in Assam, he continued to occupy the family quarter at Barauni in the interest of education of his son. He further submits that during the period of his stay at Assam, he did not claim any House Rent Allowance (HRA).
4. Mr. Bhardwaj, learned counsel appearing on behalf of the respondents has opposed this petition. He contends that the case of the petitioner was considered sympathetically and penal rent was waived for a period of one year, i.e., from 30.04.2008 to 30.04.2009 to enable the son of the petitioner to complete his Class X and appear for the examination. Counsel further submits that keeping in view the hardship being faced by the petitioner, an offer was made to the petitioner on 23.12.2009 to shift from the family accommodation at Barauni and seek a rented house, which would in turn not only entitle the petitioner to HRA but would also enable the CISF to allot the family accommodation to another deserving officer. Mr. Bhardwaj also submits that this offer was also declined by the petitioner.

5. After some hearing in the matter, learned counsel for the petitioner submits that the petitioner should be allowed to make one representation to the respondent and the respondent should be directed to consider the representation sympathetically as the aim, objective and purpose of over-staying was not either to show disrespect to the order or as an act of indiscipline, but only with a view that the education of the child should not be disrupted.
6. We have heard the learned counsels for the parties and considered their submissions.
7. While, as prayed, the writ petition is dismissed as not pressed, we hope in case a representation is made by the petitioner, the same would be considered sympathetically and an appropriate decision would be taken keeping in view the peculiar facts of this case.
8. The representation would be made within four weeks and the same would be decided within six weeks thereafter.
9. The writ petition stands disposed of, as prayed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

APRIL 26, 2018

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