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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 339/2018**

Date of decision: 31st July, 2018.

NAWAL KISHORE YADAV ... Appellant
Through: Mr. Nikhil Jain, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Vivek Goyal, CGSC with Mr.
Bibhash Kumar, Advocate for UOI/R-1 to 6.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL)

CM. No. 30401/2018

Learned counsels for the parties state that they would like to argue the appeal itself on merits. We take the statement on record and we have taken up the appeal for hearing.

LPA 339/2018

1. The appellant is an inspector in Border Security Force.
2. The appellant, on being posted with the National Security Guard Headquarters at Palam, New Delhi, was allotted General Pool Residential Accommodation House No. C-105, Sarojini Nagar, New Delhi, vide allotment letter dated 31st December 2014.
3. Subsequently, on 6th May, 2015, the appellant was transferred and posted to Security Headquarter BSF at Silchar in Assam. In terms of the extent guidelines, the appellant was allowed to retain the government

accommodation at Delhi despite being transferred to Silchar till 30th June, 2018.

4. However, in view of the Re-Development Scheme for Sarojini Nagar, the respondents had directed the appellant to vacate the accommodation by 1st September, 2017. It was stated that there was a change in policy and hence the appellant cannot be allowed to occupy the government accommodation in Delhi.

5. The appellant had thereupon filed Writ Petition (C) No. 7497/2017 which was disposed of, directing that the appellant should be given at least a period of three months to vacate the quarter/government accommodation, the same period as given to officers who demit their office. However, keeping in view the urgency and as government accommodation was to be demolished, the appellant was granted time to vacate the accommodation till 30th September, 2017 without levy of damages and penal charges.

6. The appellant had thereupon preferred LPA No. 627/2017, which was disposed of on 20th September, 2017. The last two paragraphs of the said decision read as under:-

“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.”

The aforesaid order refers to the prayer made by the appellant, which was considered sympathetically. By consent and concession recorded, the appellant was permitted to handover the government accommodation latest by 30th April, 2018 and to furnish an undertaking to the said effect, which was furnished.

7. The appellant has not vacated the government accommodation in terms of the undertaking and the order passed.

8. The appellant had filed an application seeking impleadment in Writ Petition (C) No. 5476/2018, ***Bijaya Kumar Pradhan and Others versus Union of India and Others***. It was pleaded that the case of the appellant was similarly placed as the writ petitioners therein. We may note that the said writ petitioners by order dated 29th May, 2018 have been granted interim protection against the coercive action in respect of the government accommodation allotted to them till the next date of hearing. However, application filed by the appellant was dismissed by the learned single Judge vide order dated 1st June, 2018. This order of dismissal is challenged in the present appeal.

9. The contention of the appellant is that some other similarly situated persons had challenged the order dated 20th September, 2017 in LPA No. 627/2017 before the Supreme Court in Special Leave Petition (Civil) Diary No. 14198/2018, which was not entertained giving liberty to the said persons to approach the High Court. For this purpose, they were granted protection for two weeks. Thereupon these persons have filed WP(C) No. 5476/2018 and stay order has been passed.

10. We do not think that the appellant should be allowed to withdraw and not abide by the undertaking and commitment given to the Court. Appellant would be bound by the consent order and undertaking. He should have vacated the government accommodation by 30th April, 2018. The appellant had filed an application in LPA No. 627/2018 and time for vacation was extended up to 31st May, 2018. In view of the undertaking given by the appellant, his status cannot be compared and is not similar to the persons who have filed Writ Petition (C) No. 5476/2018. Even otherwise, the date 30th June, 2018 for which the allotment was made to the appellant has come to an end.

11. The appeal has no merit and is accordingly dismissed. No costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

JULY 31, 2018

MR