

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-04-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10908 of 2019

M.Ragupathy

.. Petitioner

vs

The Director General of Police,
Director General of Police Office,
Kamarajar Salai,
Chennai-600 004.

.. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 9.3.2019 and to allot the quarter at Chintadripet based on his service and his HRA.

For Petitioner : Mr.M.Madhu Prakash

For Respondent : Mr.A.N.Thambidurai,
Special Government Pleader

O R D E R

This Judgment emanated from the lis on hand, wherein, this Court acted as "Voice for the voiceless Police Personnel, who have no Godfather in the Department."

2. The relief sought for in the present writ petition is for a direction to direct the respondent to consider the representation submitted by the writ petitioner on 9.3.2019. and to allot the quarter at Chintadripet based on his seniority.

3. The writ petitioner states that he applied for police quarters and was allotted quarters in Thiruvotriyur in 2003 and at that time, his HRA was Rs.420/-. In 2003, he was in Vigilance and Anti-Corruption Department and thereafter transferred to Egmore F-2 Police Station. The writ petitioner applied for the change of quarters nearby Egmore area. The writ

petitioner was allotted to Nariyangadu Police Quarters in 2004. The writ petitioner states that he applied for change of quarters for many times. However, his application for change of quarters was not considered. A representation submitted by the writ petitioner along with vacancy position as well as stating his eligibility was rejected without any valid reasons.

4. The writ petitioner further states that there is an absolute misuse of police quarters by many Police Officers and the police personnel, who had been removed from service are still using the police quarters and many Police Officers currently in service have not been allotted with quarters because of non-availability. The writ petitioner states that even after removal from service and even after retirement, the police officials are in occupation of the police quarters without any authority and at the mercy of few higher police officials. In this regard, the discipline in the Police Department is not maintained. Ineligible persons were allotted police quarters and certain police personnel were allotted the quarters for which they are not at all eligible with reference to their cadre, seniority etc.

5. At the outset, the writ petitioner moved the present writ petition mainly on the ground that the rules in the matter of allotment of police quarters have not at all been followed and further there is an indiscipline in allotment of quarters in various aspects. The allotments are made on the whims and fancies of some police officials. Thus, the writ petitioner is constrained to move the present writ petition.

6. The learned Special Government Pleader, appearing on behalf of the respondent, made a submission that the case of the writ petitioner would be considered based on his seniority and as per the terms and conditions of allotment of quarters. Whenever the turn comes, the claim of the writ petitioner will be considered by strictly following the Rules in force.

7. This Court is of the considered opinion that there is growing instances in the Police Department that the Quarters are allotted in violation of the Rules in force. Police Quarters are allotted based on favouritism and nepotism. The allotments of the official quarters made based on the recommendations of the Higher Officials or some times to the personal staff of those Higher Officials in violation of the seniority. In the event of providing allotments by violating the Rules, the other employees, who all are waiting to get Quarters will get frustrated and illegal actions of the Higher Officials would cause great injustice to other employees, which is otherwise unconstitutional.

8. This Court is of the considered opinion that in the matter of providing Police Quarters, the authorities competent must follow the Rules strictly and without any violation. The personnel working in the Police Department is entitled to get quarters in accordance with seniority and as per the Rules in force.

9. This being the expected duty mandated on the part of the officials, who all are in-charge of the allotment of Government Quarters, they are bound to allot quarters in accordance with the Rules and if any violations are committed, serious actions are to be initiated by the competent authorities as well as by the Government.

10. In the event of frequent violations in extending the Welfare Schemes and benefits to the Public Servants/Uniformed Personnel, undoubtedly, the efficiency level in public administration will be descending. In the event of frequent favouritisms and nepotisms are noticed on account of the illegal exercise of power by Higher Authorities, the employees in general will get frustrated on the administration in respect of availing their rightful benefits under Welfare Schemes.

11. Thus, the authorities competent must always keep in mind that while extending such favouritism to their own men, the same will paralyse the entire public administration for which they are responsible and accountable. Under these circumstances, if such an irregularity or illegality is found, suitable disciplinary actions are to be initiated against all the officials, who all are responsible for such violations and illegalities. These violations are also undoubtedly misconduct under the Government Servants Conduct Rules. Thus, there cannot be any leniency in this regard by the Government.

12. On account of such violations, non-consideration of eligible persons denying the rights of the employees, mostly resulting in frustration in the minds of the employees and this also one of the reason where we are witnessing many number of suicide cases in the Police Forces. If an employee is confident about the implementation of the Rules, his rights etc., in accord with the Statutes, then he can do public duties confidently, diligently and with an assurance that his rights and benefits are protected and taken care of by the administration in accordance with the rules.

13. The confidence building amongst the employees in respect of the rights are of paramount importance. The police personnel working in the Force must get the feeling that they are being treated equally by the higher officials and the

Department and their benefits will be granted in an uniform manner without any deviation or discrimination. Only when such mandates are followed, the State can maintain the Police Force with discipline.

14. The causes for growing indiscipline in the Police Force are the greatest concern for the public also. The growing indiscipline in Uniformed Services are affecting the interest of the public at large. The misbehaviour of the uniformed personnel in the public domain is a greatest concern and the State as well as the Head of the Police Department must look into these aspects in order to restore the discipline level and provide equal opportunity by implementing the laws without any discrimination.

15. Construction and allotment of Police quarters for the Police personnel is the welfare scheme being implemented by the Government by constituting the Police Housing Board. Thus, the benefit of allotment to be provided equally to all the eligible personnel without causing any discrimination.

16. Discrimination, Partiality, allotment to ineligible persons, are the heart burning issues amongst the Police personnel in the matter of allotment of Police quarters. The discriminations and violations are prevailing in various forms and few instances are enumerated hereunder:-

a) Application seniority is not at all followed strictly on many occasions.

b) Eligibility with reference to the type of quarters are not followed.

c) Ineligible persons are provided with preference over and above the seniority.

d) Police personnel removed, retired from service and transferred to some other stations are illegally allowed to continue in the Police quarters on extraneous considerations.

e) Personal staff including P.A's, O.A's, Drivers, Cooks etc., of the higher Police officials are illegally allotted with police quarters over and above their eligibility and in violation of seniority, more specifically, by depriving the rights of all other eligible employees, who all are longing to get Police quarters in accordance with their application seniority.

f) Rules in force for allotment of Police quarters are mostly violated. Allotments are made in favour of ineligible persons with the blessings of the Godfathers i.e., higher police officials.

17. Though many more illegalities and irregularities are being committed in the matter of allotment of Police quarters to the police personnel, the said irregularities and

illegalities remain unchecked and no actions are taken to brought transparency in the matter of allotment of quarters.

18. The competent authorities are undoubtedly aware of the fact that non-transparency in allotment of Police quarters are causing greater injustice as well as violation of equality clause and discrimination. However, they have not shown any sensitiveness and not interested in initiating appropriate actions for the reason that, in the event of implementing transparency, those higher officials, who all are tempted to commit irregularities and illegalities, would be handcuffed in extending Favouritism and Nepotism.

19. Peaceful and decent accommodation for police personnel and their family members are of paramount importance. Police personnels are working round the clock on emergency circumstances. They have no specific duty hours on many occasions. Thus, the welfare schemes like benefit of Police quarters must be provided uniformly and without causing any discrimination.

20. The very morale of the uniformed forces will be demoralized in the event of continuing the inconsistencies, Favouritism and illegalities in extending such welfare schemes. Morale of the forces are bound to be maintained by the Department and the higher officials are responsible and accountable for the same.

21. The Police officials serving in subordinate level, right from the cadre of Grade-II Constable to Inspector of Police are serving for the welfare of our great Nation for 24*7=365 days. They are bound to serve during Rainy, Summer and Winter Seasons and to perform their duties and responsibilities during odd hours and in most difficult and challenging situations. During Disasters, Festivals, Floods, etc., they are bound to perform their duties in an extraordinary manner by showing their courage. Even sometimes, by sacrificing their life, if necessary. This being the nature of the duties and responsibilities of the Police officials, their service benefits and welfare schemes are to be protected and provided uniformly, so as to ensure not even a single Police personnel feels that he is deprived of his legal rights. The Police quarters are allotted, enabling these Police Personnels to perform their services in a better manner and to maintain their family with happiness. Happy family alone make a Police person to work diligently. Happy family is the concept, wherein a public servant, guests a good morale and confident in performance of his duties without fear or favour. The Mantra of happy family can be achieved only if a conducive atmosphere is maintained by these Police personnel. This Court do not understand, what would

be the difficulty for these higher officials in following transparency in the matter of allotment of Police quarters. Thus, the competent authorities are bound to monitor the maintenance of seniority on the basis of the date of application as well as the eligibility with reference to the type of quarters to be allotted.

22. The Government Accommodation/Police quarters is a concession and a facility provided to the employees. Accommodation on concessional rent, can never be claimed as a matter of legal right. Allotment of houses on concessional rent are to be provided in accordance with the procedures settled by the Competent Authorities. Equal opportunity in allotment is a constitutional mandate. Equality clause enunciated under the Constitution can never be violated by the public authorities. The employees, in its category, have to be treated equally and the procedures are to be derived for the purpose of providing equal opportunity to all the employees. There cannot be any preferences, favouritisms or nepotisms in respect of granting allotment to staff members of the Police Department.

23. Equal treatment of the employees of the Police Department is of utmost important. Providing allotment of Government accommodation based on their respective application seniority in their respective category is the rule prescribed by the Government. However, it is not clarified by the respondent that whether the Government Rules and Regulations in the matter of allotment of accommodation has been followed by the respondent or not. A Seniority Register is to be maintained, terms and conditions and the procedures stipulated in the allotment, regulations and Government Orders are to be scrupulously followed and periodical inspections are to be conducted to weed out the illegal occupations and other illegalities, including subletting the houses or otherwise.

24. Constitutional obligations on the part of the Police department are to see that the Executives are following the rules and the procedures uniformly, so as to ensure equality and to avoid any discrimination amongst the Government employees. Favouritism and nepotism are the concepts of enemies to the noble principles of equality. Thus, any discrimination in any form is to be held as unconstitutional. Equal opportunity in employments the promotions and other service benefits, are the constitutional mandates and perspective. Treating the employees in a fair and reasonable and equal manner is the minimum requirement of an Executive functioning both under the Constitution or under any Statute. It is needless to state that no employee can be deprived of his privilege or facility, so as to avail the Police quarters in accordance with his application seniority in the respective category. Allotments made contrary

to the Regulations are to be held illegal and arbitrary. Our Great nation is fastly approaching a vibrant democracy. Thus, the components of the constitutional organisations have to undoubtedly adopt the transparent procedures in the matter of providing certain facilities equally to all the public servants and Government employees. Current day situation warrants transparent procedures in order to eradicate any unnecessary doubts in the minds of the public, so also the Government employees. Transparency in procedures and any executive actions undoubtedly make the Nation more glorious. All the procedures and regulations of allotment and cancellations etc., are to be made available to all the public servants, so as to understand the procedures and to avail the facilities in accordance with their application seniority in their respective categories and to abide by the Rules and Regulations thereon scrupulously.

25. The principles of reasonableness and no arbitrariness in actions by the public authorities are the core of our constitutional scheme and structure. Arbitrariness by the public authorities can be demonstrated by the existence of different circumstances. Whenever both the decision making process and the decision taken are based on irrelevant facts, while ignoring relevant considerations, such an action can normally be termed as 'arbitrary'. Where the process of decision making is followed but proper reasoning is not recorded for arriving at a conclusion, the action may still fall in the category of arbitrariness. Of course, sufficiency or otherwise of the reasoning may not be a valid ground for consideration within the scope of judicial review. Rationality, reasonableness, objectivity and application of mind are some of the prerequisites of proper decision making. The concept of transparency in the decision making of the public authority has also become an essential part of our administrative law.

26. An action by a public authority, whether administrative or executive, has to be fair and in consonance with the statutory provisions and rules. Even if no rules are in force to govern executive action, still such action, especially if it could potentially affects the rights of the parties, should be just, fair and transparent. Arbitrariness in the action, even where the rules vest discretion in an authority, has to be impermissible. The exercise of discretion, in line with the principles of fairness and good governance, is an implied obligation upon the authorities, when vested with the powers to pass orders of determinative nature. Thus, it is made clear that any decision in this regard are to be beyond doubt and the principle of reasonableness and fairness are to be adopted by the Police Department, while granting allotment to its own employees.

27. In view of the above discussions, the following orders are passed:-

1) The respondent/Director General of Police is directed to open up an official website for the purpose of submitting application for allotment of Police quarters by the Police personnel through online. The Website is directed to be opened within a period of two weeks from the date of receipt of a copy of this order.

2) The respective seniority of the applications are directed to be maintained date wise, cadre/class wise, with reference to the eligibility of the type of quarters to be allotted to the Police personnel.

3) The respondent/Director General of Police is directed to constitute a team of officials to conduct inspections and enquiry and identify and correct particulars of all illegal and irregular occupants in the Police quarters and accordingly, issue show cause notice to them to vacate their respective Police quarters within a period of 60 days from the date of receipt of such show cause notice. In the event of not vacating the premises within a period of 60 days, then all suitable actions are directed to be initiated to vacate the premises and take possession of the same for the purpose of providing allotment to the serving personnel, who all are waiting in the order of seniority.

4) In respect of applications to be submitted from the date of the order of this Court, the application details, eligibility criteria, type of quarters, allotments made, details of the allottees and all required particulars are to be made available in the official website of the Police department in order to maintain transparency in actions.

5) On receipt of any complaint regarding the illegal or irregular allotments or occupations, all necessary actions are directed to be initiated within a period of 30 days from the date of receipt of such complaints.

6) Violations in following the rules for allotment of Police quarters are to be viewed seriously and all suitable disciplinary proceedings are to be initiated against the erring officials of the Police department.

7) The respondent/Director General of Police is directed to monitor the implementations of the

directions of this Court in order to maintain clean,
transparent and efficient public administration.

28. With all the above directions, the writ petition
stands disposed of. However, there shall be no order as to
costs.

Sd/-
Deputy Registrar(C.S)

//True Copy//

Svn/kak
Sub Assistant Registrar

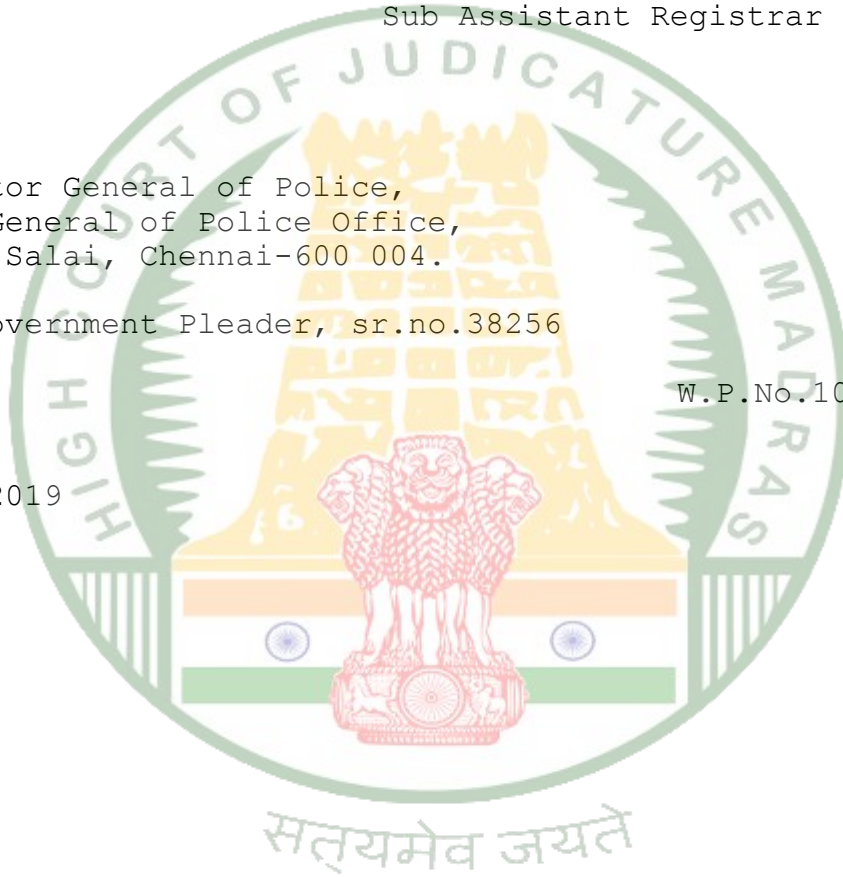
To

The Director General of Police,
Director General of Police Office,
Kamarajar Salai, Chennai-600 004.

+1cc to Government Pleader, sr.no.38256

W.P.No.10908 of 2019

AK(CO)
CS/21/05/2019



WEB COPY